

Council Agenda Report

City Council Meeting
12-09-02

**Item
4.B.**

To: Mayor Jennings and Honorable Members of the City Council

Prepared by: Stacey Rice, Ph.D., Senior Planner

Reviewed by: Drew D. Purvis, Planning Director
Christi Hogin, City Attorney

Approved by: Katie Lichtig, City Manager

Date prepared: November 21, 2002

Meeting date: December 9, 2002

Subject: Appeal No. 02-006 - An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Feet in Height. The City Council Will Consider Level of Impact to Public and Private Views of the Pacific Ocean and Consistency with the General Plan Land Use Policy 1.1.5, Land Use Implementation Measure 8 and Land Use Implementation Measure 28.

APPELLANT: Patt Healy and/or Malibu Coalition for Slow Growth

APPLICANT: Barsocchini & Associates

OWNER: Arthur and Kimberly Silver

LOCATION: 24950 Pacific Coast Highway

RECOMMENDED ACTION: Adopt Resolution No. 02-38 denying Appeal No. 02-006 and approving Plot Plan Review No. 00-129 and Site Plan Review No. 00-083 at a maximum of 24 feet in height for a portion of a new two-story single-family bluff top residence.

FISCAL IMPACTS: None

PROCEDURAL HISTORY SINCE PLANNING COMMISSION APPROVAL:

In summary, the following chronology sets forth the procedural history of the project:

- July 15, 2002: Planning Commission considers and approves the applicant's third plan ("Plan D") at a duly noticed public hearing (Resolution No. 02-017).
- July 25, 2002: Patt Healy and/or Malibu Coalition for Slow Growth (hereinafter Patt Healy) files Appeal 02-006 due to concerns with public views and General Plan consistency.
- September 9, 2002: City Council refers the project back to staff to confer with Coastal Commission staff regarding preservation of public views (staff report and minutes attached as Attachment C and D).
- October 23, 2002: Applicant meets with Coastal Commission staff regarding public views.
- October 24, 2002: Jack Ainsworth advises staff via email that the Coastal staff would approve a project at 24 feet in height if a view analysis proves no more blue water view would be blocked with the 24 foot height when compared to the amount of blue waster view blocked by the project originally issued permit by the Coastal Commission.
- November 12, 2002: Applicant submits revised plans with a maximum height of 24 feet (Attachment G).

DISCUSSION: Patt Healy appealed the Planning Commission's conditional approval of PPR 00-129/SPR 00-083 based on the following:

1. Public views are not protected to the maximum feasible extent; and
2. The project is inconsistent with the General Plan, including but not limited to, General Plan Land Use Policy 1.1.5 and Land Use Implementation Measure 8 and Land Use Implementation Measure 28.

On September 9, 2002 the City Council referred the item back staff to confer with Coastal Commission staff for determination of impact to public views from Pacific Coast Highway. On October 24, 2002, the Coastal Commission staff advised City staff they would consider a residence with a maximum height of 24 feet if blue water view would be protected to the same extent as they were by the Coastal Development Permit issued for a project on the same site in September 1998. On November 12, 2002, the applicant submitted revised plans with a maximum height of 24 feet.

Prior to the November 12, 2002 submittal to the City, the Coastal Commission staff directed the applicant to demonstrate that *"the proposed development will not increase the amount or percentage of blue water ocean views that will be blocked or obscured, as seen from Pacific Coast Highway, in relation to the previously permitted development."*

The Commission staff further stated that *"the visual analysis will have to illustrate that the proposed project will not block more of the blue water ocean view than the previously permitted development to be considered consistent with the previously approved permit."*

In addition, the Commission indicated that *"they reviewed the Malibu LCP policies relative to this project and if the applicant can demonstrate the proposed development is consistent with the previously approved development the proposed development will be in compliance with the visual resource policies of the Malibu LCP."*

Therefore, provided the applicant can demonstrate the proposed project is consistent with the previously approved coastal development permit commission staff will accept a permit amendment and will likely recommend approval of a permit amendment for the proposed development. However, the final decision for a coastal development permit will be decided by the Coastal Commission.

City staff received the revised plans from the applicant on November 12, 2002. The 28 foot portions of the house were lowered to 24 feet in height. These revised plans demonstrate the removal of the pitched roofs from elevation 152.5 feet to elevation 149.5 feet with a flat roof and the lowering of the entry parapet from elevation 151 feet to elevation of 145.5 feet with a flat roof. There has no change to the proposed building footprint. The pitched roof was simply changed to a flat roof and the entry parapet was lowered. All of the plan sheets of the April 16, 2002 plans remain unchanged with the exception of pages A.4, A.5, A.5.1, A.6, and A.7 (Attachment G).

The applicant has not provided the City with an analysis of the view impacts created by the originally approved residence compared to the residence contained in the November 2002 plans. Staff does not have a copy of the active Coastal Development Permit plans from which such an analysis could be completed. Therefore, the Council could impose a condition of approval that says that the height of the home cannot create greater view blockage than the active Coastal approved plan.

Issues Presented On Appeal To The City Council:

1. Is the structure, as designed above the base of 18', oriented so as to minimize view blockage from adjacent properties and public views?

The proposal as redesigned provides maximum feasible protection of public views from Pacific Coast Highway (see attached plans). Also, while not raised as part of the appellant's written appeal, she has raised concerns over view and landscaping height. Staff conditional landscaping as follows:

"To preserve public and private views from Pacific Coast Highway to the Pacific Ocean, prior to issuance of a building permit, the applicant shall record a landscape easement in favor of the City of Malibu which provides that landscaping may not exceed twenty-five feet (25') above natural grade in and around the residence as shall not to exceed a view corridor starting at point of 42" above the centerline of Pacific Coast Highway to appoint 25' above natural grade at the location of the residence. The easement shall be recorded prior to final planning approval and in force for the life of the project. The landscape plans shall be revised to reflect the restrictions of the easement. Revised landscape plans shall be submitted for review and approval by the Planning Director prior to framing inspection."

2. Is the project consistent with the General Plan Land Use Policies 1.1.5 and Implementation Measure 8 and 28?

A finding of General Plan consistency is required pursuant to Malibu Municipal Code, where it is stated "An application approved by any review body must be found consistent with the objectives, policies, general land uses, and goals of the Malibu General Plan."

This property is zoned Rural Residential low density and conforms to the design and development standards of the Interim Zoning Ordinance. Therefore, the project has been found consistent with the General Plan policies and implementation measures. The proposed project complies with all applicable requirements of state and local law in that conditions have been added as part of this approval to require compliance with all applicable state and local requirements.

Appellant Patt Healy has specifically stated the following policies in the appeal:

LU Policy 1.1.5: The City shall require careful site planning which blends development with the natural topography.

- The project blends with the natural topography in that the project is notched into the gentle sloping area of the property and within the required development envelope and setback from the beachside bluff and geologic constraints. The project conditionally approved by the Planning Commission received extensive geological review and approval in concept from the City Geologist.

LU Implementation Measure 8: Require that development respect public and private views and view corridors to the greatest extent feasible.

LU Implementation Measure 28: Site and design development to protect public views from scenic roadways to and along the shoreline and to scenic coastal areas, including public parklands.

Measures 8 and 28 are appropriately implemented as a component of the required findings for site plan review (please refer to Resolution No. 02-38, Section 3 for these

required findings). The impacts on public views and the measures to protect public view to the maximum extent feasible are analyzed in the earlier part of this section. The implications of the project for public and private views is discussed above in appeal issue number one.

ENVIRONMENTAL REVIEW: All applications that are determined to be a "project" under the California Environmental Quality Act (CEQA) require environmental review. A "project" under CEQA is defined as, "an activity which may cause a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and which is any of the following:

1. An activity directly undertaken by a public agency.
2. An activity undertaken by a person which is supported, in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
3. An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."

Environmental review occurs on each application submitted to the Planning Department and in most cases, a development application is determined to be a project under CEQA. Once this determination is made, Staff analyzes whether the work under the application fits one of the 32 Categorical Exemptions under CEQA. Prepared and adopted by the State of California, Article 19 of the CEQA Guidelines describes the projects which based on experience do not generally have environmental impacts because of their size or scope. Typical categorical exemptions include single-family homes, expansions to existing facilities, minor alterations to land, replacement, or reconstruction. If a project is found to be categorically exempt, no further environmental documentation is required. If a project is found to be categorically exempt but Staff determines that due to the location, size, or characteristics of the project there may be an impact, an Initial Study is performed.

Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposal as described above. The Planning Director has found that this project is listed among the classes of projects of which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION, Class 3(a) has been issued.

PUBLIC NOTICE AND CORRESPONDENCE: Pursuant to the Malibu Municipal Code, staff published the required 21-day public notice in the Malibu Surfside News on August 15, 2002 for the September 9, 2002 City Council meeting, at which point it was continued to November 12, 2002 and then continued to December 9, 2002. Occupants and property owners within a 500-foot radius of the proposed project were also notified

on August 19, 2002. Staff received one additional letter to the file during this noticing period a letter from Greg Aftergood on November 18, 2002 (Attachment F). Mr. Aftergood raised the following three points:

1. My clients would prefer to have the Silver's promise to furnish us with copies of their hydrology and drainage reports (contemporaneous to the submittal of same to the City) included as a condition of project approval (there is always the remote chance that the Silvers might decide to sell the property before developing same).

Response: Copies of hydrology and drainage reports including updates to previously submitted reports are required information for review prior to final plan approval by the City Engineer. All technical reports associated with stormwater management and erosion control and subsequent report updates are public information and copies can be made for the public.

2. The previously remediated slope should be revegetated without delay, consistent with the 1999 condition of approval and applicable Coastal Commission and City requirements.

Response: The previously remediated slope was revegetated, but due to the planting of native slow growing species complete vegetation coverage of the entire remediated slope area has not yet been realized. In addition, this project proposal has been conditioned so that vegetation shall be planted on the bluff face to screen the two existing down-drains (or other measures acceptable to the Public Works Director).

3. The conditions of project approval should also include: (a) the requirement to furnish updated hydrology and drainage reports, (b) installation of monitoring/dewatering wells to address potentially hazardous groundwater conditions, and (c) acceptance and recordation of a covenant to maintain the drainage and on-site storm water detention systems and/or groundwater monitoring or extraction wells (similar to the covenants required of the owners of the easterly adjacent parcel).

Response: The project proposal has been conditioned to comply with all of the requirements of Article V, Chapter 4 of the City Municipal Code – Storm Water and Urban Runoff Pollution Control. In addition, onsite drainage construction will be in substantial conformance with “Hydrology, Control Structure, Detention System and Conveyance Study, 24920, 24910 and 24900 Pacific Coast Highway”, latest revision dated September 25, 1999.

STAFF FOLLOW-UP: Stamp project plans with approval-in-concept.

ATTACHMENTS:

- A) Proposed City Council Resolution No. 02-38
- B) Staff Report for November 12, 2002 City Council Meeting
- C) Staff Report for September 9, 2002 City Council Meeting
- D) City Council Minutes of September 9, 2002
- E) Correspondence from Jack Ainsworth of California Coastal Commission
- F) Public Correspondence
- G) Revised plans and plan reductions submitted November 12, 2002
- H) Story Pole photos

*Related documents are available at the Planning Department.

RESOLUTION NO. 02-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DENYING APPEAL 02-006 AND APPROVING PLOT PLAN REVIEW NO. 00-129 AND APPROVING SITE PLAN REVIEW 00-083 FOR A NEW TWO-STORY SINGLE-FAMILY BLUFF-TOP RESIDENCE AT 24950 PACIFIC COAST HIGHWAY (ARTHUR AND KIMBERLY SILVER).

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On September 24, 2001, the Planning Director conditionally approved Plot Plan Review No. 00-129 and Site Plan Review 00-083, with conditions.
- B. On October 2, 2001, the Planning Department received Appeal No. 01-016 of the Planning Director's decision to conditionally approve an application for the construction of a new single-family bluff-top residence.
- C. On November 19, 2001 there was a duly noticed public hearing for the Planning Commission, at which time the Commission continued the item to December 3, 2001.
- D. On December 3, 2001, the Planning Commission held a continued public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. At the conclusion of the hearing, the Planning Commission directed Staff to prepare a resolution denying the project and setting forth the written findings consistent with the Commission's deliberation.
- E. On December 11, 2001, Applicant files a premature Appeal to City Council (Appeal No. 01-020). The Planning Commission had not yet adopted its written findings, therefore there was not a final Planning Commission decision from which to appeal.
- F. On March 8, 2002, on their own initiative, the applicants prepared revised plans in attempt to address the specific bases for denial of the application and requested that the application be approved conditionally on the incorporation of the proposed revisions.
- G. On April 1, 2002, the Planning Commission held a duly noticed public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. The Planning Commission then adopts the Resolution of Denial (01-039), denying the project and upholding Appeal No. 01-016.

- H. On April 16, 2002, upon review of revised plans, Staff required the applicant again prepare revised plans which addressed the specific bases for denial of the application and requested that the plans be approved conditionally on the incorporation of the proposed revisions.
- I. On June 24, 2002 the City Council considered the applicant request for the Council to consider the revised plans, however, the Council remanded the project back to the Planning Commission for their review and consideration of Plan D.
- J. On July 15, 2002 the Planning Commission reviewed, considered, and conditionally approved Plan D and adopted Resolution No. 02-017.
- K. On July 25, 2002 Patt Healy and/or the Malibu Coalition for Slow Growth appealed the decision of the Planning Commission on public views and consistency with the General Plan.
- L. On September 9, 2002 the City Council referred the project to the California Coastal Commission for their consideration of the public view impact.
- M. On October 10, 2002 California Coastal Commission staff Jack Ainsworth advised City staff that his recommendation would be for an 18' height limit for the proposed project.
- N. October 23, 2002: Applicant meets with Coastal Commission staff regarding public views.
- O. On October 24, 2002 California Coastal Commission staff Jack Ainsworth advises City staff via email that Coastal staff would approve a project at 24 feet in height if a view analysis proves no more blue water view would be blocked with the 24 foot height when compared to the original coastal permit.
- P. On November 12, 2002, applicant submits revised plans, attached hereto as Exhibit A, with a maximum height of 24 feet.
- Q. Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed plans. The Planning Director has found that this project is listed among the classes of projects, that have been determined to not have significant adverse effect on the environment, and shall therefore be exempt from the provisions of CEQA (a Class 3 (a) CATEGORICAL EXEMPTION).

Section 2. Plot Plan Review Approval.

The proposed project conforms with the development standards of the Interim Zoning Ordinance, including but not limited to, all setback, structure size, 2/3rds rule, grading, basement, landscaping, and parking requirements, except that the project exceeds the 18-foot height limit in certain sections of the proposed new single-family residence. Based on the evidence in the record, the Plot Plan Review is hereby approved, subject to approval of the Site Plan Review application.

Section 3. Site Plan Review Approval and Findings.

Based upon the evidence in the record, including all written and oral testimony, the City Council hereby approves Site Plan Review No. 00-083 approving the increased height above the base 18 feet, subject to the conditions contained in Section 4, based upon the following findings:

1. That the project does not adversely affect neighborhood character in that the project is designed in such a manner as to reduce the overall appearance of bulk and mass. This is achieved by locating the structure on only 51 percent of the lot width, by setting the structure back a considerable distance from Pacific Coast Highway, and by having the majority of the structure as single story. The residence as proposed represents the maximum structure bulk and mass.
2. That the project protects the natural resources and complies with the City's land use policies, goals and objectives as defined by staff, in that the applicant will detain stormwater on site so that there is no net increase in downstream quantities and the coastal bluff is protected from erosion and failure.
3. That the project provides maximum feasible protection to significant public and private views. The maximum height of the proposed structure is to be located at a mean sea level elevation of 149.50 feet. Public and private views within definition of the Interim Zoning Ordinance are maintained to the maximum feasible extent.
4. That the project does not affect solar access in that the structure is proposed to be located at least 50 feet from the west property line and at least 80 feet from the property line on the east, both sufficient distances from structures on adjacent properties so that there will be no interference with solar access.
5. That the project will not adversely affect the City's ability to prepare a General Plan in that the City has already prepared and adopted a General Plan.
6. That the project is consistent with the General Plan in that it is a single-family residence being constructed according to the City's standards on property designated in the General Plan for this type of development.
7. That the proposed project complies with all applicable requirements of state and local law in that conditions have been added as part of this approval to require compliance with all applicable state and local requirements.

Section 4. Conditions of Approval.

General/Planning

1. The undersigned property owner (or the agent of the property owner) acknowledges receipt of the City of Malibu City Council's decision of approval and agrees to abide by all terms and conditions thereof. The permit and rights conferred in this approval shall not be effective until the applicant signs and returns the affidavit accepting the conditions set forth below, and provides proof of recordation of said affidavit with the County Recorder. The applicant shall file this form with the City Clerk within 60 days of the City Council's decision.
2. This Resolution of appeal shall be copied in its entirety and placed directly onto **separate plan sheets behind the cover sheet** of the development plans prior to submitting to the California Coastal Commission and the City's Building and Safety Department for plan check.
3. The Planning Director is authorized to make minor changes to the approved plans or any of the conditions if such modifications shall achieve substantially the same results, as would strict compliance with said plans and conditions.
4. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the plans on file with the Planning Department (dated November 12, 2002) and attached hereto as Exhibit A. In the event the project plans conflict with any condition of approval, the condition shall control.
5. All structures shall conform to the Building and Safety Department, Engineering Services, Geology, Environmental Health, Archaeology, Biology, Los Angeles County Fire Department and the California Coastal Commission requirements and conditions.
6. Prior to final building approval and certificate of occupancy, the applicant shall receive Planning Director approval for compliance with all conditions of approval.
7. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights there under.
8. All exterior lighting shall be low intensity and shielded to reduce the visibility to surrounding areas and to minimize impacts to wildlife.
9. Pool equipment shall be located adjacent to the west wall of the proposed residence, and enclosed by solid walls.
10. All landscaping areas shall be planted and maintained as described in the landscape and fuel modification plan. Failure to comply with the landscape conditions is a violation of these conditions of approval. Landscaping shall be used to soften views of the structure as seen from Pacific Coast Highway and surrounding properties.

11. To preserve public and private views from Pacific Coast Highway to the Pacific Ocean, prior to issuance of a building permit, the applicant shall record a landscape easement in favor of the City of Malibu, which provides that landscaping may not exceed twenty-five feet (25') above natural grade or 42" above the centerline elevation (163.28-feet) of Pacific Coast Highway, whichever is more restrictive. The easement shall be recorded and in force for the life of the project. The landscape plans shall reflect the restrictions of the easement. Prior to the issuance of a building permit, final landscape plans shall be submitted for review and approved by the Planning Director.

12. This permit shall expire on one year after final planning approval, unless extended pursuant Malibu Municipal Code.

13. Prior to issuance of a building permit, the property owners shall execute and record, in a form satisfactory to the City Attorney, a covenant running with the land providing that the property owners, and her successors in interest, will indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, whether incurred prior to or after the date of this Resolution, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks, or has sought, to challenge the validity of any of the City's actions or decisions.

Geotechnical

14. Prior to final planning approval, it is the reviewer's understanding, based on discussions with the applicant, that the applicant shall retain a hydrogeologic consultant to evaluate and model the groundwater under the site. The results of the exploration, monitoring, modeling and analyses shall be incorporated into a hydrogeologic report, and two copies of the report must be submitted to City geotechnical Staff for review.

15. Prior to final planning approval, a comprehensive site drainage plan incorporating the Project Geotechnical Consultant's recommendations shall be submitted to City geotechnical Staff for review. The drainage plan shall include details for all measures to mitigate the shallow groundwater conditions underlying the site. All French drains, basement subdrains, retaining wall backdrains, and other subsurface nonerosive drainage devices must be included on the plan.

16. City Guidelines require installation of a subdrain beneath the long axis of the swimming pool, where feasible. Prior to final planning approval, the applicant shall provide specific recommendations for a swimming pool subdrain and as suitable outlet. The plans shall include a detail for the swimming pool subdrain and outlet as recommended by the Project Geotechnical Consultant.

17. All foundation excavations must be observed and approved by the Project Engineering Geologist and/or Project Geotechnical engineer prior to placement of reinforcing steel.

Storm Water/Drainage

18. The City Engineer shall impose best management practices (BMP's) to control erosion and manage storm water.
19. Vegetation shall be planted on the bluff face to screen the two existing down-drains (or other measures acceptable to the Public Works Director).
20. This project shall comply with all of the requirements of Article V, Chapter 4 of the City Municipal Code – Storm Water and Urban Runoff Pollution Control.
21. Onsite drainage construction will be in substantial conformance with "Hydrology, Control Structure, Detention System and Conveyance Study, 24920, 24910 and 24900 Pacific Coast Highway", latest revision dated September 25, 1999.

Section 5. Certification.

The City Clerk shall certify the adoption of this Resolution.

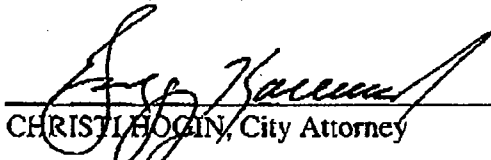
PASSED, APPROVED AND ADOPTED this 9th day of December, 2002.

JEFF JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:

FOR _____
CHRISTL HOGAN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure Section 1094.6

Lilichiman, LLC

24950 Pacific Coast Highway

Malibu, CA 90265

RECEIVED

NOV 10 2002

PLANNING DEPT

Exhibit A

Project Consultants

Architect:

Barsocchini & Associates
3502 Coast View Drive
Malibu, CA 90265
(310) 456-3625

Structural:

Engineering Design
1334 Lincoln Blvd., Suite 205
Santa Monica, CA
(310) 394-8775

Geotechnical:

RJR Engineering Group
4343 Telegraph Road
Ventura, CA 93003
(805) 650-5125

Title 24:

Solary Inc.
22028 Ventura Blvd., Suite 207
Woodland Hills, CA 91364
(818) 347-6096

Landscape:

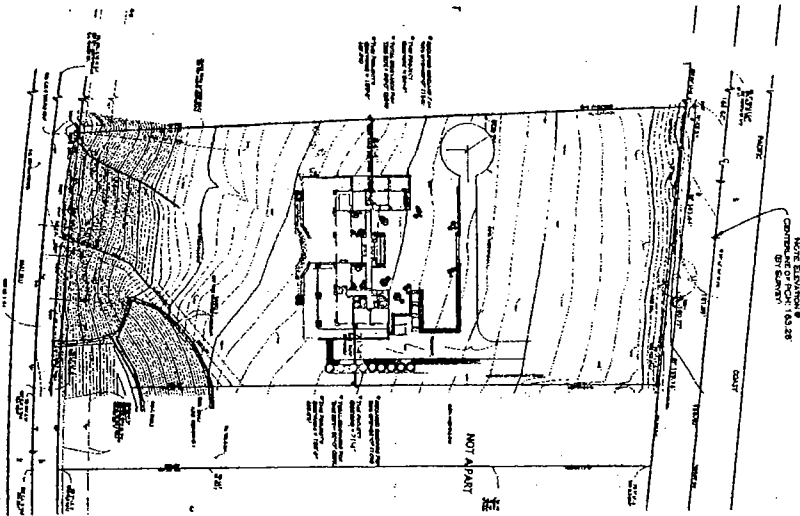
Manny Randall
909 Euclid Street, #6
Santa Monica, CA
(310) 385-2615

Building Data

Address: 24950 Pacific Coast Highway
PPR#: 00-129
SPR#: 00-083
Legal: APN# 4458-15-11812
Lot Area: 5.24 Acres
Zoning: RFR2
Fire Zone: IV
Seismic Zone: V-N
Const. Type: 2 (plus basement)
No. of Stories: R-3 / U-1
Occupancy: Ground Floor: 7,968.88
Second Floor: 3,189.83
Total Sq. Ft.: 11,158.31 Sq. Ft.
Impermeable Area: (Including Structure): 22,327 Sq. Ft.
(25,000 Max. Allowed)
All Driveways Are Permeable: DG or
Interlocking Pavers

INDEX

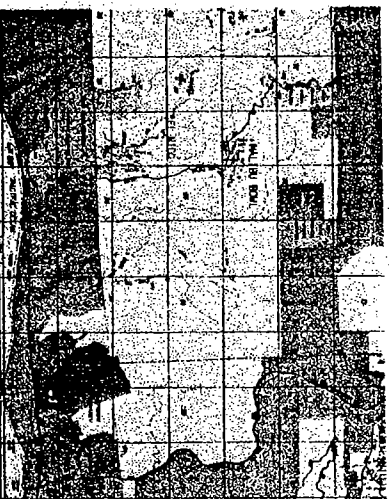
A-1	Title Sheet
A-1.1	Site Plan
A-1.2	Notice of Decision
A-2	Ground Floor Plan
A-3	Basement Floor Plan
A-3.1	Second Floor Plan
A-4	Roof Plan
A-5	North & East Elevations
A-5.1	South & West Elevations
A-6	Sections: AA
A-7	Sections: BB & CC



Site Plan

Scale: 1" = 60'-0"

Vicinity Map



Title Sheet

BARSOCCHINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCHINI, A.I.A. • (310) 456-3625
3502 COAST VIEW DRIVE • MALIBU, CA 90265

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24950 Pacific Coast Highway
Malibu, CA 90265

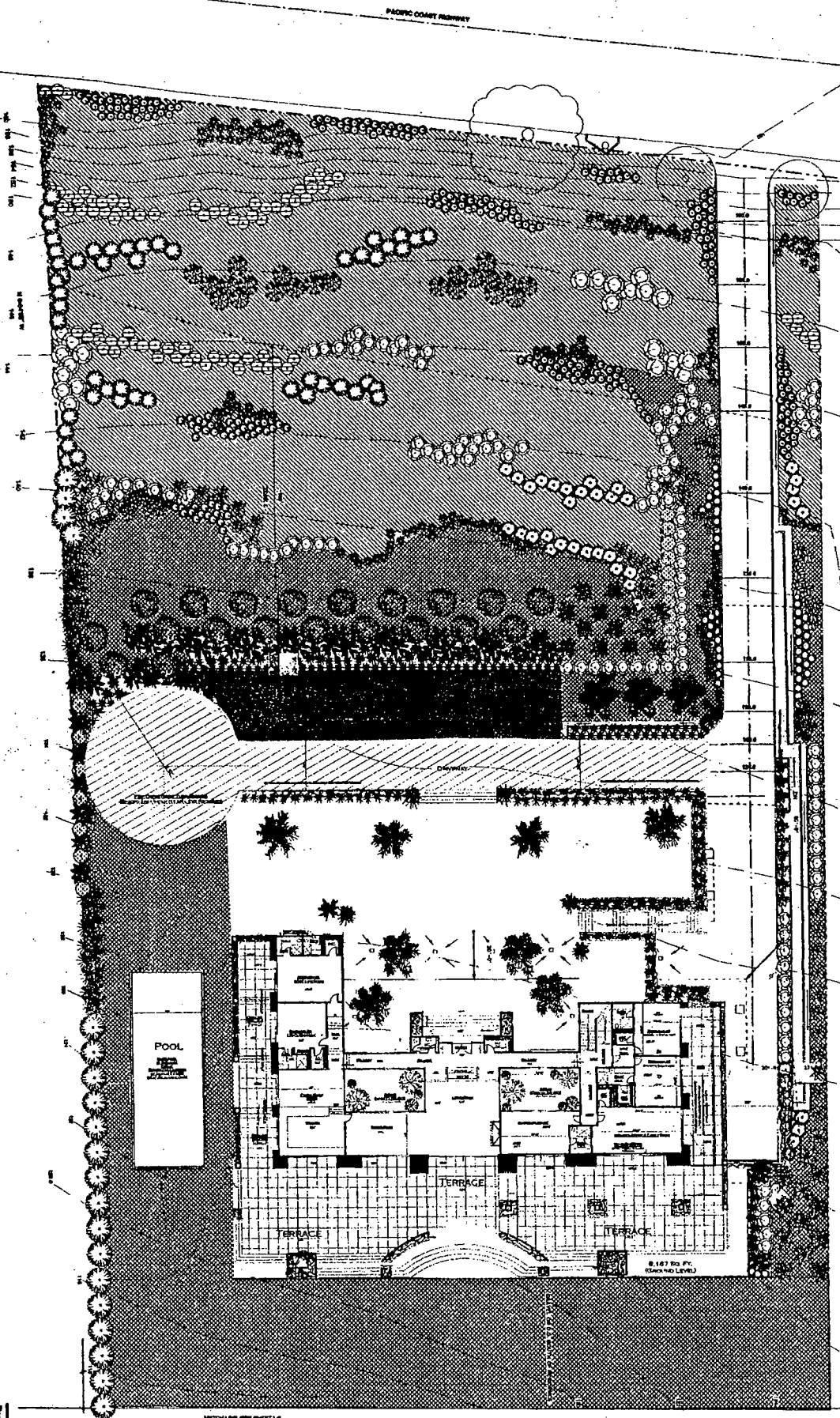
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A.1

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NOV 12 2002

PLANNING DEPT



2002

REFER TO GRADING PLAN FOR
FINAL DRIVEWAY LAYOUT

LANDSCAPED AREA
LANDSCAPE

Budding Diet

Address: **3900 Pacific Coast Highway**

Production All Northbound to

© The author(s) 1994. All rights reserved.

.....

and are either open to the sky or covered

Total de P.:

.....

2/3 Rudy Carroll

Second Floor, 3,

 $7,964.63 + 3,189.63 \times 17,172.54 \text{ FL}$

TOTAL Allowable Square Footage:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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11

Ground Floor Plan

Scale: 1/8" = 1'-0"

16

Lilichiman, LLC
24950 Pacific Coast Highway
Malibu, CA 90265

BARSOCCHINI & ASSOCIATES, INC.
A R C H I T E C T S
MICHAEL E. BARSOCCHINI, A.I.A. • (310) 456-3625
3502 COAST VIEW DRIVE • MALIBU, CA 90265

Ground Floor Plan

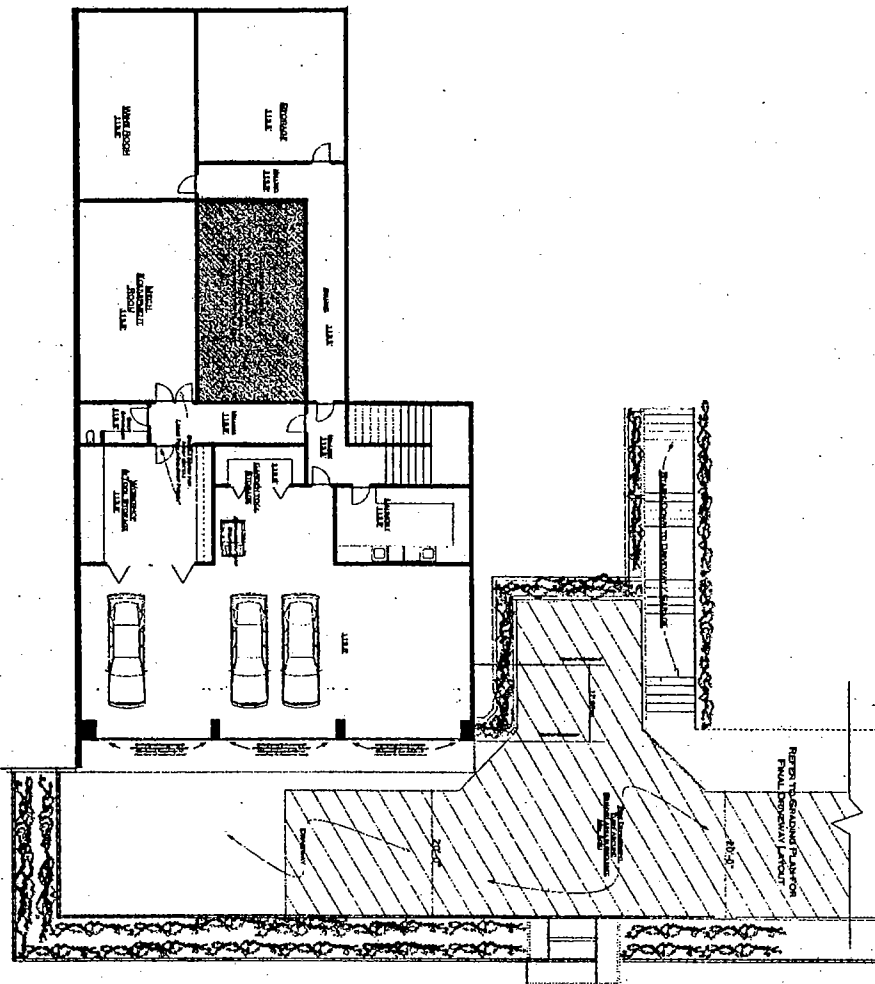
Scale: 1/8" = 1'-0"

A.2

PROJECT

NOV 10 2002

PLANNING DEPT

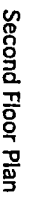


Basement Level Plan

Scale: 1/8" = 1'-0"

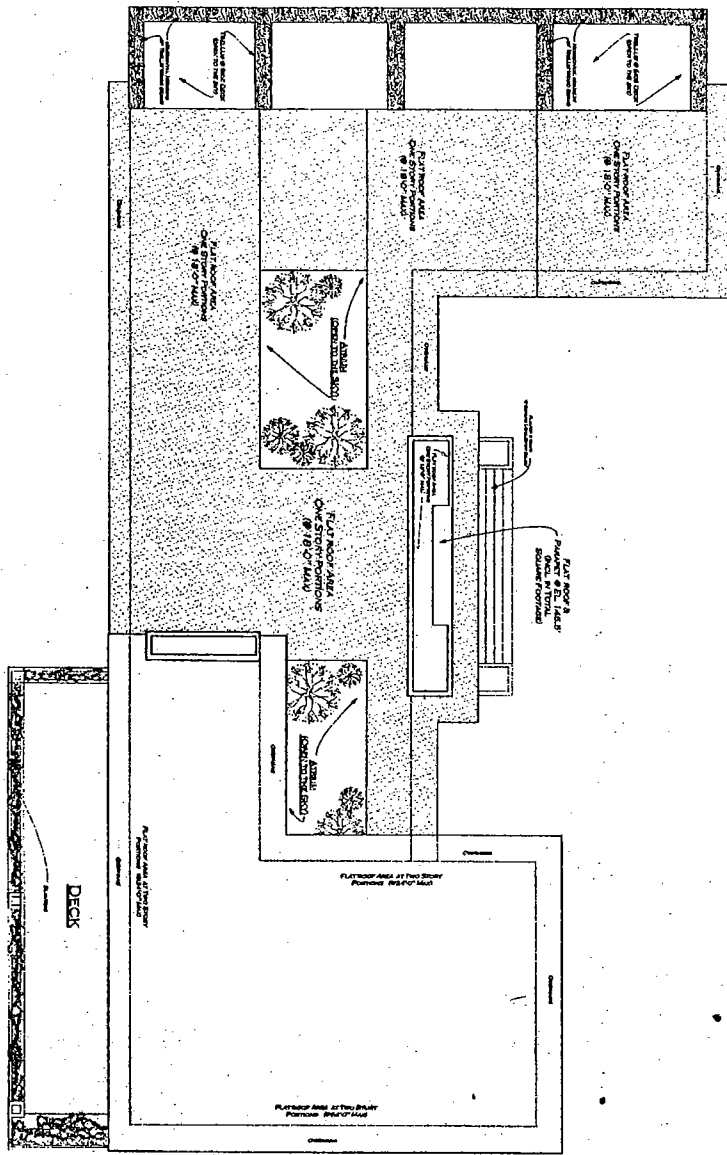
PLANNING

SHOULD HAVE INDICATED
116 RD. IN PROPERTY OF OWNER



Scale: 1/8" = 1'-0"

RECEIVED
NOV 13 2002
PLANNING DEPT



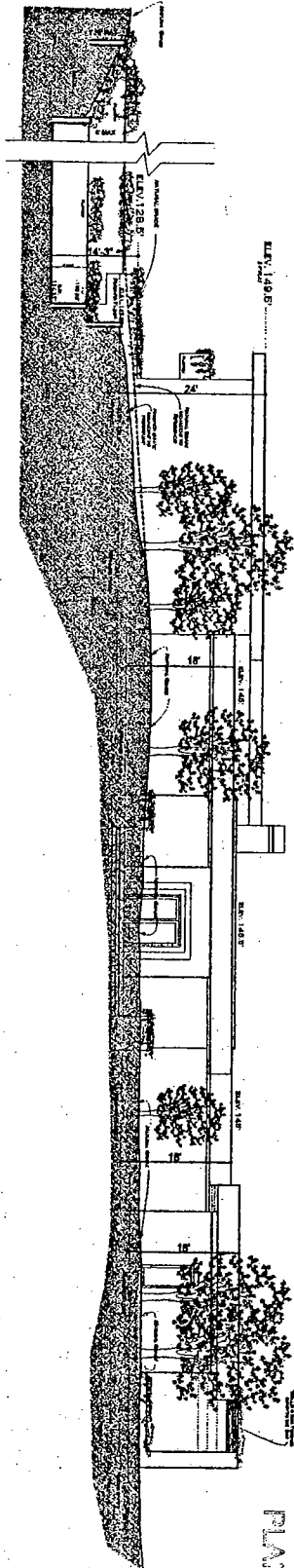
Roof Plan

Scale: 1/8" = 1'-0"

RECEIVED

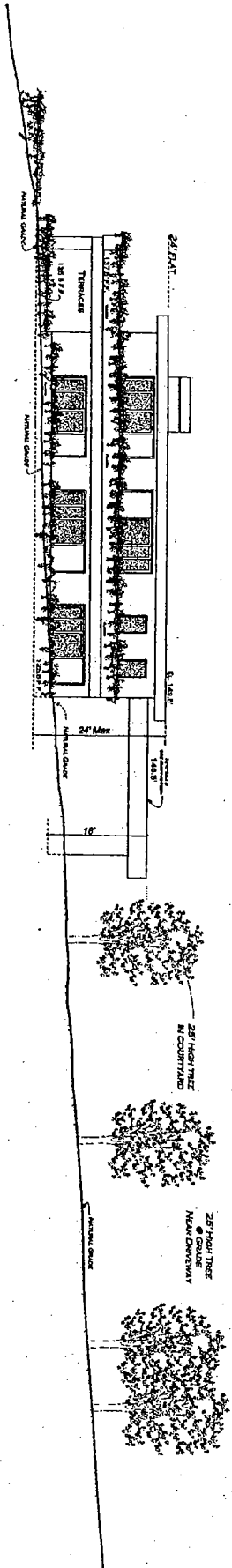
NOV 12 2002

PLANNING DEPT



North Elevation

Scale: 1/8" = 1'-0"



East Elevation

Scale: 1/8" = 1'-0"

North & East
Elevations

BARSOCCHINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCHINI, A.I.A. • (310) 456-3625
3502 COAST VIEW DRIVE • MALIBU, CA 90265

20

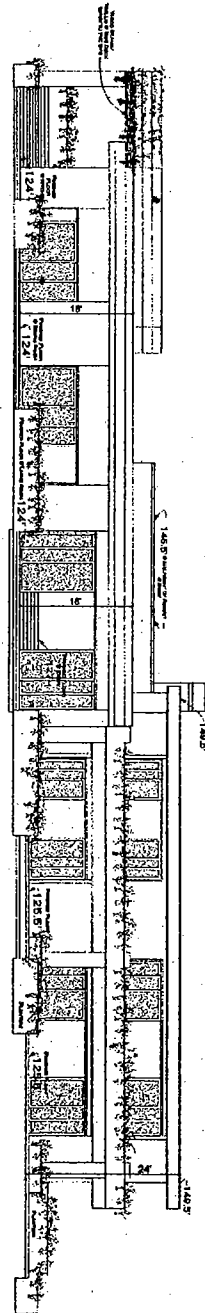
Lilichman, LLC
24950 Pacific Coast Highway
Malibu, CA 90265

A5

RECEIVED

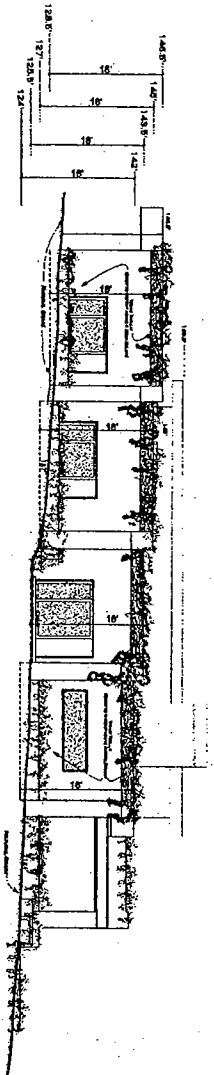
NOV 12 2002

PLANNING DEPT.



South Elevation

Scale: 1/8" = 1'-0"



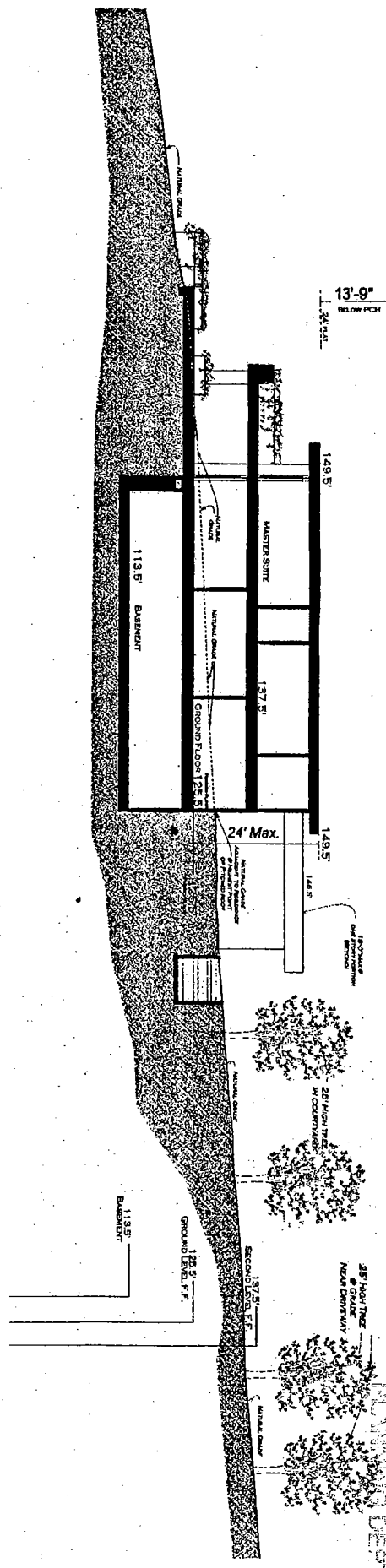
West Elevation

Scale: 1/8" = 1'-0"

ELEVATION 163.28' BY SURVEY @ CENTRELINE OF PCH

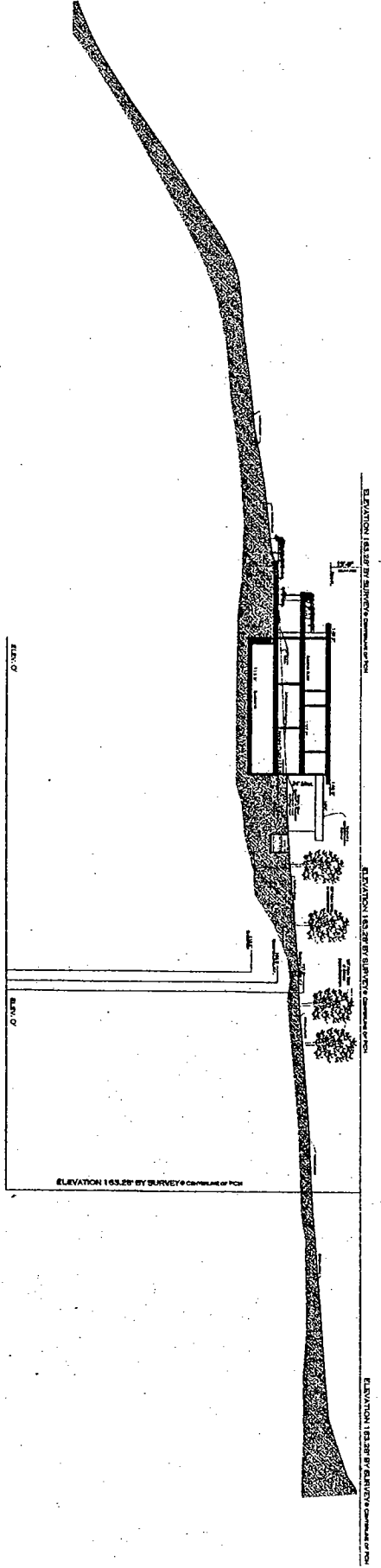
ELEVATION 163.28' BY SURVEY @ CENTRELINE OF PCH

RECEIVED
NOV 12 2002
PLANNING DEPT



Section AA (thru East Side of Residence)

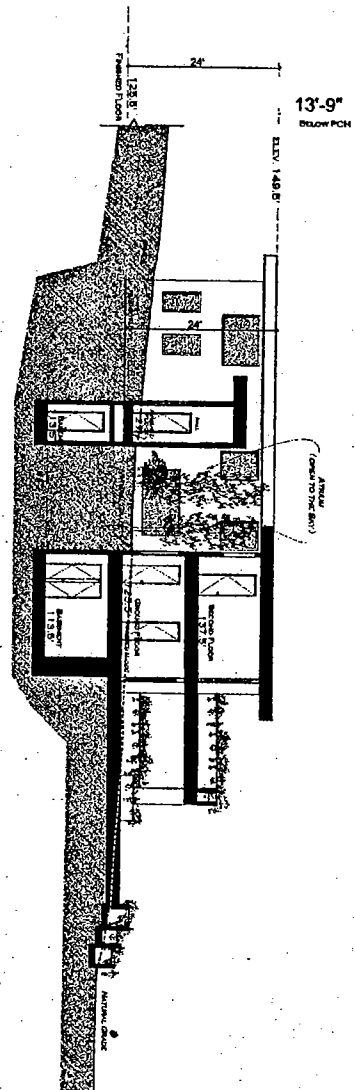
Scale: 1/8" = 1'-0"



Section AA (thru East Side of Residence)

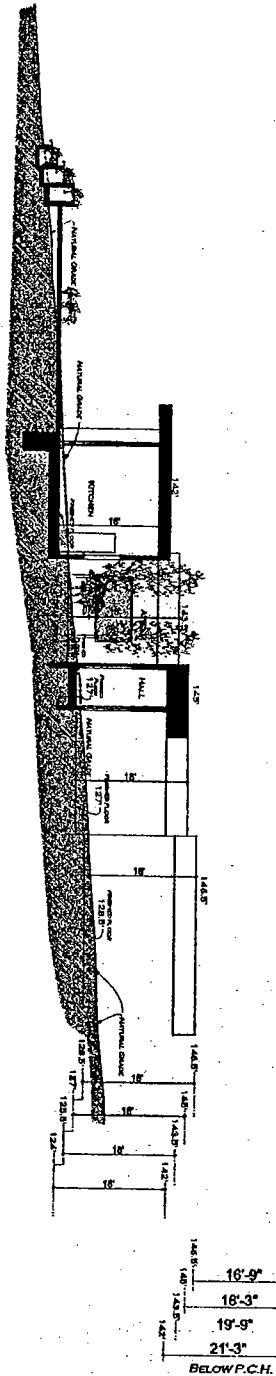
Scale: 1" = 20'-0"

ELEVATION 163.28' BY SURVEY @ CENTERLINE OF PCH

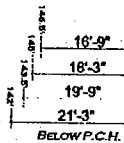


Section CC (thru Atrium & Two Story Portion of Residence)

Scale: 1/8" = 1'-0"



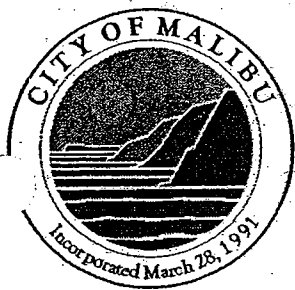
ELEVATION 163.28' BY SURVEY @ CENTERLINE OF PCH



Section BB (thru Atrium & One Story Portion of Residence)

Scale: 1/8" = 1'-0"

RECEIVED
NOV 12 2002
PLANNING DEPT



Council Agenda Report

City Council Meeting
11-12-02

**Item
4.A.**

To: Mayor Jennings and the Honorable Members of the City Council

Prepared by: Stacey Rice, Ph.D., Senior Planner 

Reviewed by: Drew D. Purvis, Planning Director

Approved by: Katie Lichtig, City Manager 

Date prepared: October 23, 2002 Meeting date: November 12, 2002

Subject: Appeal No. 02-006 - An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Feet in Height. The City Council Will Consider Public and Private Views of the Pacific Ocean and Consistency with the General Plan Land Use Policy 1.1.5, Land Use Implementation Measure 8 and Land Use Implementation Measure 28.

APPELLANT: Patt Healy and/or Malibu Coalition for Slow Growth

APPLICANT: Barsocchini & Associates

OWNER: Arthur and Kimberly Silver

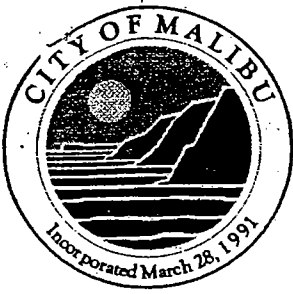
LOCATION: 24950 Pacific Coast Highway

RECOMMENDED ACTION: Continue this item to the City Council regularly scheduled meeting of December 9, 2002.

DISCUSSION: This item was continued at the September 9, 2002 City Council meeting in order to obtain a view assessment from the California Coastal Commission. Staff had preliminary discussions with Jack Ainsworth, Supervisor, Planning and Regulation, at the Coastal Commission. Mr. Ainsworth verbally relayed that his recommendation would be to limit the proposed project design to 18-feet. Since that time, the applicants met again with Mr. Ainsworth and Chuck Damm, Senior Deputy Director, on October 23, 2002, at which time Mr. Ainsworth verbally relayed to City Staff that the Coastal Commission would entertain a 24' height amendment if the ocean view blockage was the same or

less than the existing vested permit. In this matter since a coastal permit exists, a height in excess of 18 feet up to 24 feet for flat roofs and 28 feet for pitched roofs is permissible pursuant to Site Plan Review, provided the blue water view blockage is not increased from the previously approved plans. City Staff received written direction from Jack Ainsworth on October 24, 2002. Pursuant to the October 24, 2002 direction of the Coastal Commission staff, the applicant will submit revised plans with a maximum height of 24' and an analysis of blue water view obstruction. Staff will review revised plans pursuant to the Interim Zoning Ordinance and provide a recommendation at the December 9, 2002 public hearing.

ATTACHMENT: October 24, 2002 Correspondence from Jack Ainsworth

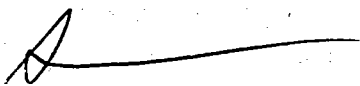



Council Agenda Report

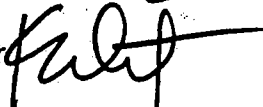
City Council Meeting
09-09-02

**Item
4.A.**

To: Mayor Jennings and Honorable City Council

Prepared by: Stacey Rice, Ph.D., Senior Planner 

Reviewed by: Drew D. Purvis, Planning Director 
Christi Hogin, City Attorney

Approved by: Katie Lichtig, City Manager 

Date prepared: August 30, 2002 Meeting date: September 9, 2002

Subject: Appeal No. 02-006 - An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Foot in Height. The City Council Will Consider Public and Private Views of the Pacific Ocean and Consistency with the General Plan Land Use Policy 1.1.5, Land Use Implementation Measure 8 and Land Use Implementation Measure 28.

APPELLANT: Patt Healy and/or Malibu Coalition for Slow Growth
APPLICANT: Barsocchini & Associates
OWNER: Arthur and Kimberly Silver
LOCATION: 24950 Pacific Coast Highway

RECOMMENDED ACTION: Adopt Resolution No. 02-38 denying Appeal No. 02-006 and approving Plot Plan Review No. 00-129 and conditionally approving Site Plan Review No. 00-083 for a new two-story single-family bluff-top residence.

FISCAL IMPACTS: None

DISCUSSION: Patt Healy and/or Malibu Coalition for Slow Growth (hereinafter Patt Healy) appealed the Planning Commission's conditional approval of PPR 00-129/SPR 00-083 based on the following contentions:

1. Public views are not protected to the maximum feasible extent; and

2. The project is inconsistent with the General Plan, including but not limited to, General Plan Land Use Policy 1.1.5 and Land Use Implementation Measure 8 and Land Use Implementation Measure 28.

Procedural History:

In summary, the following chronology sets forth the procedural history of the project:

- December 22, 2000: An application for a 10,005 s.f. residence, 750 s.f. guest house, 9000 s.f. basement, and swimming pool was submitted to the City (hereinafter referred to as "Plan A").
- June 7, 2001: Dr. Marti Witter requested the project be reviewed by the Environmental Review Board (ERB) for public and private view impact; however, applicant decides to redesign. Therefore Plan A is withdrawn.
- September 10, 2001: Applicant redesigns and submits Plan B (10,221 s.f. residence, 750 s.f. guest house, 9,000 s.f. basement, and swimming pool) in response to Dr. Witter and neighbor concerns regarding public view impact and side yard setbacks.
- September 24, 2001, the Planning Director approves Plot Plan Review No. 00-129 and Site Plan Review 00-083 (Plan B), with conditions.
- October 2, 2001: Commercial neighbor Ron Goldman appeals Planning Director Approval on four issues (Appeal 01-016).
- On December 3, 2001: the Planning Commission held a continued public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. At the conclusion of the hearing, the Planning Commission directed Staff to prepare a resolution denying the project (Plan B) and setting forth the written findings consistent with the Commission's deliberation
- December 11, 2001: Applicant files premature Appeal 01-020 to City Council. The Planning Commission had not yet adopted its written findings, therefore there was not a final Planning Commission decision from which to appeal.
- January/February, 2002: Applicant works with Staff to identify additional modifications required for conformance with development standards.
- March 7, 2002: Public Hearing was re-noticed to enable the Planning Commission to either reconsider its earlier action or adopt a final resolution denying Plan B, with conditions.

- March 8, 2002: Applicant submits Plan C (11,133 s.f. residence, no guest house, 5,550 s.f. basement and swimming pool) in response to conformance issues raised by Planning Commission and Staff comments on Plan B. In this revision, the applicant removed the colonnade, reduced the height from 22' to 18', reduced the pitched roof height to 153'6", increased the distance below the centerline of PCH from 7'3" to 9'9" at the highest point of the pitched roof and from 13'3" to 21'3" at the height of the lowest roof, reduced basement size, removed the guest house, added 2 bedrooms, increased the east sideyard setback from 61' to 71'4", and increased west sideyard setbacks from 49' to 84'4."
- April 1, 2002: Planning Commission adopts Resolution of denial 01-039 upholding Appeal No. 01-016 and denying Plan B. Applicant requested the Planning Commission review Plan C instead of Plan B (which was denied by the Planning Commission 5 months earlier) as the proposed project. Planning Commission did not consider Plan C since it had previously denied Plan B.
- April, 2002: Staff reviews Plan C and identifies further modifications necessary for conformance with development standards.
- April 16, 2002: Applicant revises and submits plans, "Plan D" (11,158 s.f. residence, no guest house, 5,550 s.f. basement and pool). However, no new application is received, and applicant requests that the appeal (no. 01-020) to City Council of Plan B proceed. In this revision, the applicant removed the deck from the east side of the master bedroom, reduced the amount of the architectural projections, reduced the habitable square footage to offset the 328 s.f. of architectural projections, redesigned portions of the west trellis to be made of wood, and added landscape easement to the landscape plan.
- May 28, 2002: Appeal hearing continued to City Council June 24, 2002.
- June 24, 2002: City Council remands Plan D back to the Planning Commission for its consideration on July 15, 2002. Council requests additional research be conducted related to storm water and drainage.
- June 28, 2002: Site visit with Stacey Rice, Drew Purvis, Rick Morgan and Mark Zucker at the Zucker property to discuss/analyze drainage concerns.
- June 28, 2002: Geology approval in the Planning stage granted for Plan D.
- July 15, 2002: Planning Commission considers and approves Plan D in a duly noticed public hearing and adopts Resolution No. 02-017.

- July 25, 2002: Patt Healy files Appeal 02-006 (Attachment B) due to concerns with public views and General Plan consistency.

Surrounding Conditions:

The proposed project is located on a vacant five acre lot which is zoned Rural Residential (RR-2). The property slopes downward, towards the south, with a view of the Pacific Ocean and is not located near any Environmentally Sensitive Habitat Areas (ESHA). The majority of the parcel slopes are gentler than 3:1. Pacific Coast Highway borders the property to the north. Malibu Road borders the property to the south.

Subject Site:

The subject site is 228,016 square feet in size as indicated in Table 1 - Lot Area.

Table 1 - Lot Area	
Lot Depth	714 feet
Lot Width	314 feet
Gross Lot Area	228,016 sq. ft.
Adjusted Lot Area*	226,885 sq. ft.

**Gross lot area minus PCH right-of-way,
Malibu Rd. right-of-way and slopes in excess of 1:1.*

On December 22, 2000, the applicants first submitted their request to the Planning Department for the construction of a one-story 10,005 square foot single-family bluff-top residence with a 750 square foot guest house, a 9,000 square foot basement, swimming pool and spa. The application was incomplete and the applicants were notified what information they needed to provide in order to complete the application. On April 26, 2001, after having received additional information from the applicants, the Planning Department determined that the application was complete and noticed the project to owners and occupants within 500 feet of the subject property pursuant to Municipal Code Section 9.4.23.C.

Planning Staff conducted numerous site visits prior to the applicant's formal submittal. Story poles were placed on different occasions to satisfy the Coastal Commission preliminary review as well as City Staff. Based upon the elevation of the centerline of Pacific Coast Highway, which varies from 166 feet to 161 feet, the applicant was given a starting maximum building height elevation of a 150-feet and was asked to place poles indicating the 150-foot elevation. At the same time the poles were placed for Coastal Staff, City Staff conducted a public and private view analysis as well. City Staff determined there would be no primary view blockage from any of the neighboring residences and maximum feasible protection of public views would be achieved.

On June 8, 2001, Dr. Marti Witter requested the project be reviewed by the Environmental Review Board for public and private view impact. However, the Planning Director subsequently discovered that Dr. Witter previously had reviewed and approved

the subject site for development with the proposed single-family home and provided adequate conditions to protect public views. In addition, the applicant was not willing to waive any time periods to accommodate Dr. Witter's late request. Based on the previous review by Dr. Witter and the recommended conditions, on August 28, 2001, Staff issued a Notice of Decision to approve the project. Staff issued its decision based on the plans on file (Plan A).

After issuance of the Notice of Decision and as a result of the original design for a one-story single-family bluff-top residence (Plan A) at the 150 foot elevation, the plans were revised to increase the west side yard setback at the request of the neighbor, Mark Zucker. The redesign effectively shifted approximately 2,500 square feet of structure from the west side of the structure footprint over to the east portion of the structure by adding a second-story of approximately the same square footage (Plan B). On September 24, 2001, an amended Notice of Decision was issued approving the revised project with conditions (Plan B). On October 2, 2001, the Planning Director's decision was appealed by Ron Goldman, owner of the office property at 24955 Pacific Coast Highway located on the north side of Pacific Coast Highway across from the subject property (Appeal No. 01-016).

Planning Commission and City Council Actions:

On December 3, 2001 the Planning Commission upheld the Goldman Appeal and denied the Planning Director's decision regarding Plan B. On April 1, 2002, based upon the evidence submitted by the applicant, the appellant, and written and oral testimony at the Planning Commission's regularly scheduled December 3, 2001 meeting the Planning Commission upheld the appeal, denied the project and adopted Resolution No. 01-039, formally denying the project (Plan B) and upholding Appeal 01-016.

The applicant revised the plans two more times since the Planning Commission denial of Plan B. Subsequent to the Planning Commission denial of the project, the applicant, Arthur and Kimberly Silver, appealed the Planning Commission decision to City Council (Appeal 01-020) and requested the Council approve and revised plan (Plan D). The Council remanded the Plan D project back to the Planning Commission for reconsideration of Appeal No. 01-016. The Planning Commission determined that the revised project (Plan D) had been redesigned to address the previous four concerns, which were the basis for the Planning Commission denial (Plan B). The Planning Commission also determined that the project was redesigned to fully conform to City Code (please refer to Table 2). The Planning Commission considered and conditionally approved Plan D on July 15, 2002. Patt Healy appealed the Commission's decision on July 25, 2002.

Table 2 – Zoning Conformance			
Development Requirement	Allowed	Project Approved by Planning Commission	Comments
Side Yard (cum.)	78 feet	> 80 feet	OK
PARKING	2 enclosed/2 covered	6 enclosed	OK
STRUCTURE SIZE	11,172 sq. ft.	11,158.31 no guest house proposed	OK
BASEMENT	EXEMPT	5,550 sq. ft	OK
2/3RDS RULE	5,312 sq. ft.	3,189.63 sq. ft.	OK
HEIGHT	18 feet	< 18-28 feet	SITE PLAN REVIEW
ROOF SLOPE	3:12	Flat & > 3:12	OK
IMPERMEABLE COVERAGE	25,000 sq. ft.	22,327 sq. ft.	OK
NON-EXEMPT GRADING	1,000 cu.yds.	980 cu.yds.	OK
SITE OF CONSTRUCTION	≤3:1	<3:1	OK
WALL HEIGHT			
Front	42" solid -6 feet	6 feet	OK
Side(s)	6 feet	6 feet	n/a
Rear	6 feet	none	n/a

Issues Presented On Appeal To The City Council:

1. Is the structure, as designed above the base of 18', oriented so as to minimize view blockage from adjacent properties and public views?

In order to approve a site plan review application permitting an increase of height above the base 18 feet permitted under the Interim Zoning Ordinance the City must find, among other things, that the project provides maximum feasible protection to significant public and private views, as defined in Malibu Municipal Code (MMC) Section 9.3.03.A.17 (Ord. 93, 6-14-93). The Planning Commission considered this issue and determined that the evidence in the record supported its finding that the project did protect views, to the maximum extent feasible. Appellant, Patt Healy, contends that the project does not protect public and private views to the maximum feasible extent. In her appeal Ms.

Healy states "These view are not protected to the maximum extent feasible." No further elaboration or details are provided in the written appeal.

Staff conducted several site visits and prepared a photo analysis (Attachment J) to illustrate potential future conditions on public and private views. The view analysis was conducted at eye level and by foot around Pacific Coast Highway and Ron Goldman's office building. The proposal as designed provides maximum feasible protection of public views from Pacific Coast Highway. In addition, Staff conducted a private view analysis once story poles were placed. The story poles are only minimally visible from the commercial property across the street. Maximum feasible protection of private views is also maintained.

The view analysis photos can be found in Attachment J. The view photos can be described as follows:

- View of subject property taken from Pacific Coast Highway: This photo illustrates that blue water views are still visible from PCH.
- View of 25126 PCH (Trento Property) taken from Pacific Coast Highway: This photo is of an approved neighboring property. This property was approved at a higher centerline of PCH than the Silver proposed project.
- View of 24910 PCH (Gable Property) taken from Pacific Coast Highway: This photo illustrates the view from another immediately adjacent property.
- View of subject property taken from upper walkway of Goldman office building: This photo shows the story poles and blue water views from across the street.
- View of subject property taken from Goldman office building parking lot: This photo shows the orange mesh of the story poles is barely visible from the office parking lot. The view is of blue water.

The proposed project has a width of 176 feet and a depth of 64 feet. In order to minimize view blockage from adjacent developed properties, most of the residence is one-story and less than 18 feet in height. There are no public parklands in the vicinity and therefore no impact to public views from public parklands.

The subject structure has a setback approximately 280 feet from the front property line at Pacific Coast Highway. The minimum setback requirement is 65 feet. An 18-foot high structure at the 65 foot setback would be 161 feet above sea level, 7.5 feet higher than the proposed structure. The required rear yard setback is 107 feet from the top of bluff. Since the property is considered a bluff top lot, a geologically constrained area, the applicant proposed to locate the project a distance of 210 feet from the bluff top. The applicant designed the proposed project 9.78 feet below the centerline of Pacific Coast Highway. Therefore public views from Pacific Coast Highway have been protected.

While not raised as part of the appellants written appeal, she has raised concerns over view and landscaping height. Staff conditioned landscaping as follows:

"To preserve public and private views from Pacific Coast Highway to the Pacific Ocean, prior to issuance of a building permit, the applicant shall record a landscape easement in favor of the City of Malibu which provides that landscaping may not exceed twenty-five feet (25') above natural grade in and around the residence as shall not to exceed a view corridor starting at a point of 42" above the centerline of Pacific Coast Highway to a point 25' above natural grade at the location of the residence. The easement shall be recorded prior to final planning approval and in force for the life of the project. The landscape plans shall be revised to reflect the restrictions of the easement. Revised landscape plans shall be submitted for review and approval by the Planning Director prior to framing inspection."

2. Is the project consistent with the General Plan Land Use Policies 1.1.5 and Implementation Measure 8 and 28?

A finding of General Plan consistency is required pursuant to M.M.C. Section 9.1.18, where it is stated "An application approved by any review body must be found consistent with the objectives, policies, general land uses, and goals of the Malibu General Plan."

This property is zoned Rural Residential low density and conforms to the design and development standards of the Interim Zoning Ordinance. Therefore, the project has been found consistent with the General Plan policies and implementation measures. The proposed project complies with all applicable requirements of state and local law in that conditions have been added as part of this approval to require compliance with all applicable state and local requirements.

Appellant Patt Healy has specifically stated the following policies in the appeal:

LU Policy 1.1.5: The City shall require careful site planning which blends development with the natural topography.

- The project blends with the natural topography in that the project is notched into the gentle sloping area of the property and within the required development envelope and setback from the beachside bluff and geologic constraints. The project conditionally approved by the Planning Commission received extensive geological review and approval in concept from the City Geologist.

LU Implementation Measure 8: Require that development respect public and private views and view corridors to the greatest extent feasible.

LU Implementation Measure 28: Site and design development to protect public views from scenic roadways to and along the shoreline and to scenic coastal areas, including public parklands.

Measures 8 and 28 are appropriately implemented as a component of the required findings for site plan review (please refer to Attachment A, Section 3 for these required

findings). The impacts on public views and the measures to protect public view to the maximum extent feasible are analyzed in the earlier part of this section. The implications of the project for public and private views is discussed above in appeal issue number one.

In letters dated August 26, 2002 and August 29, 2002, the appellant requested a continuance of the September 9, 2002 public hearing to gather further data on view impacts of the conditionally approved project (refer to Attachment G). Staff has responded to these requests in Attachment I (Please also note that there is an additional response from the applicant's representative in Attachment H). Staff does not support continuing this matter.

PUBLIC COMMENT: Staff received no other public comment since the Planning Commission approval other than the appeal letter from Patt Healy.

ENVIRONMENTAL REVIEW: All applications that are determined to be a "project" under the California Environmental Quality Act (CEQA) require environmental review. A "project" under CEQA is defined as, "an activity which may cause a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and which is any of the following:

1. An activity directly undertaken by a public agency.
2. An activity undertaken by a person which is supported, in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
3. An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."

Environmental review occurs on each application submitted to the Planning Department and in most cases, a development application is determined to be a project under CEQA. Once this determination is made, Staff analyzes whether the work under the application fits one of the 32 Categorical Exemptions under CEQA. Prepared and adopted by the State of California, Article 19 of the CEQA Guidelines describes the projects which based on experience do not generally have environmental impacts because of their size or scope. Typical categorical exemptions include single-family homes, expansions to existing facilities, minor alterations to land, replacement, or reconstruction. If a project is found to be categorically exempt, no further environmental documentation is required. If a project is found to be categorically exempt but Staff determines that due to the location, size, or characteristics of the project there may be an impact, an Initial Study is performed.

Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposal as described above. The Planning Director has found that this

project is listed among the classes of projects of which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION, Class 3(a) has been issued.

PUBLIC NOTICE AND CORRESPONDENCE: Pursuant to Section 9.5.70 of the Interim Zoning Ordinance, Staff published the required 21-day public notice in the Malibu Surfside News on August 15, 2002. Occupants and property owners within a 500-foot radius of the proposed project were also notified on August 19, 2002.

STAFF FOLLOW-UP: Conditionally approve Plan D for review by the California Coastal Commission.

ATTACHMENTS:

- A) City Council Resolution No. 02-38
- B) Appeal No. 02-006/Appellant's letter of appeal
- C) Planning Commission Resolution No. 02-017
- D) Planning Commission Minutes July 15, 2002
- E) Geology and Biology Review Sheets
- F) Public Hearing Notices
- G) Appellant's Letter Requesting Continuance dated August 26 and August 29, 2002
- H) Applicant's response to Appellant's request for Continuance
- I) Staff Response Letter to Appellant's Request of Continuance
- J) Color Copies of View Analysis Photos

Kristy poles
*Related documents are available at the Planning Department.

RESOLUTION NO. 02-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DENYING APPEAL 02-006 AND APPROVING PLOT PLAN REVIEW NO. 00-129 AND CONDITIONALLY APPROVING SITE PLAN REVIEW 00-083 FOR A NEW TWO-STORY SINGLE-FAMILY BLUFF-TOP RESIDENCE AT 24950 PACIFIC COAST HIGHWAY (ARTHUR AND KIMBERLY SILVER).

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On September 24, 2001, the Planning Director conditionally approved Plot Plan Review No. 00-129 and Site Plan Review 00-083 (Plan B), with conditions.
- B. On October 2, 2001, the Planning Department received Appeal No. 01-016 of the Planning Director's decision to conditionally approve an application for the construction of a new single-family bluff-top residence.
- C. On November 19, 2001 there was a duly noticed public hearing for the Planning Commission, at which time the Commission continued the item to December 3, 2001.
- D. On December 3, 2001, the Planning Commission held a continued public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. At the conclusion of the hearing the Planning Commission directed Staff to prepare a resolution denying the project (Plan B) and setting forth the written findings consistent with the Commission's deliberation.
- E. On December 11, 2001, Applicant files a premature Appeal to City Council (Appeal No. 01-020). The Planning Commission had not yet adopted its written findings, therefore there was not a final Planning Commission decision from which to appeal.
- F. On March 8, 2002, on their own initiative, the applicants prepared revised plans (Plan C) in attempt to address the specific bases for denial of the application and requested that the application be approved conditionally on the incorporation of the proposed revisions.
- G. On April 1, 2002, the Planning Commission held a duly noticed public hearing on the application, reviewed and considered the staff report, reviewed and considered

written reports, public testimony and related information. The Planning Commission then adopts the Resolution of Denial (01-039), denying the project (Plan B) and upholding Appeal No. 01-016.

- H. On April 16, 2002, upon review of revised plans (Plan C), Staff required the applicant again prepare revised plans (Plan D) which addressed the specific bases for denial of the application and requested that the plans (Plan D) be approved conditionally on the incorporation of the proposed revisions.
- I. On June 24, 2002 the City Council considered the applicant request for the Council to consider the revised plans (Plan D), however, the Council remanded the project back to the Planning Commission for their review and consideration of Plan D.
- J. On July 15, 2002 the Planning Commission reviewed, considered, and conditionally approved Plan D and adopted Resolution No. 02-017.
- K. On July 25, 2002 Patt Healy and/or the Malibu Coalition for Slow Growth appealed the decision of the Planning Commission on public views and consistency with the General Plan.
- L. Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed Plan D. The Planning Director has found that this project is listed among the classes of projects, that have been determined to not have significant adverse effect on the environment, and shall therefore be exempt from the provisions of CEQA (a Class 3 (a) CATEGORICAL EXEMPTION).

Section 2. Plot Plan Review Approval.

The proposed project conforms with the development standards of the Interim Zoning Ordinance, including but not limited to, all setback, structure size, 2/3rds rule, grading, basement, landscaping, and parking requirements, except that the project exceeds the 18 foot height limit in certain sections of the proposed new single-family residence. Based on the evidence in the record, the Plot Plan Review is hereby approved, subject to approval of the Site Plan Review application.

Section 3. Site Plan Review Approval and Findings.

Based upon the evidence in the record, including all written and oral testimony, the City Council hereby approves Site Plan Review No. 00-083 approving the increased height above the base 18 feet, subject to the conditions contained in Section 4, based upon the following findings:

1. That the project does not adversely affect neighborhood character in that the project is designed in such a manner as to reduce the overall appearance of bulk and mass. This is achieved by locating the structure on only 51 percent of the lot width, by setting the

structure back a considerable distance from Pacific Coast Highway, and by having the majority of the structure as single story. The residence as proposed represents the maximum structure bulk and mass.

2. That the project protects the natural resources and complies with the City's land use policies, goals and objectives as defined by Staff, in that the applicant will detain stormwater on site so that there is no net increase in downstream quantities and the coastal bluff is protected from erosion and failure.
3. That the project provides maximum feasible protection to significant public and private views. The maximum height of the proposed structure is to be located at a mean sea level elevation of 153.5, 9.78 feet below the centerline mean sea level elevation of 163.28-feet for Pacific Coast Highway. Public and private views within definition of the Interim Zoning Ordinance are maintained to the maximum feasible extent.
4. That the project does not affect solar access in that the structure is proposed to be located at least 50 feet from the west property line and at least 80 feet from the property line on the east, both sufficient distances from structures on adjacent properties so that there will be no interference with solar access.
5. That the project will not adversely affect the City's ability to prepare a General Plan in that the City has already prepared and adopted a General Plan.
6. That the project is consistent with the General Plan in that it is a single-family residence being constructed according to the City's standards on property designated in the General Plan for this type of development.
7. That the proposed project complies with all applicable requirements of state and local law in that conditions have been added as part of this approval to require compliance with all applicable state and local requirements.

Section 4. Conditions of Approval.

General/Planning

1. The undersigned property owner (or the agent of the property owner) acknowledges receipt of the City of Malibu City Council's decision of approval and agrees to abide by all terms and conditions thereof. The permit and rights conferred by this approval shall not be effective until the signed acknowledgement has been **notarized** and returned to the City of Malibu, no later than **30 days of the City Council's decision.**
2. This Resolution of appeal shall be copied in its entirety and placed directly onto **separate plan sheets behind the cover sheet** of the development plans prior to submitting to the California Coastal Commission and the City's Building and Safety Department for plan check.

3. The Planning Director is authorized to make minor changes to the approved plans or any of the conditions if such modifications shall achieve substantially the same results, as would strict compliance with said plans and conditions.
4. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the plans on file with the Planning Department (Plan D, dated April 16, 2002). In the event the project plans conflict with any condition of approval, the condition shall control.
5. All structures shall conform to the Building and Safety Department, Engineering Services, Geology, Environmental Health, Archaeology, Biology, Los Angeles County Fire Department and the California Coastal Commission requirements and conditions.
6. Prior to final building approval and certificate of occupancy, the applicant shall receive Planning Director approval for compliance with all conditions of approval.
7. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights there under.
8. All exterior lighting shall be low intensity and shielded to reduce the visibility to surrounding areas and to minimize impacts to wildlife.
9. Pool equipment shall be located adjacent to the west wall of the proposed residence, and enclosed by solid walls.
10. All landscaping areas shall be planted and maintained as described in the landscape and fuel modification plan. Failure to comply with the landscape conditions is a violation of these conditions of approval. Landscaping shall be used to soften views of the structure as seen from Pacific Coast Highway and surrounding properties.
11. To preserve public and private views from Pacific Coast Highway to the Pacific Ocean, prior to issuance of a building permit, the applicant shall record a landscape easement in favor of the City of Malibu, which provides that landscaping may not exceed twenty-five feet (25') above natural grade or 42" above the centerline elevation (163.28-feet) of Pacific Coast Highway, whichever is more restrictive. The easement shall be recorded and in force for the life of the project. The landscape plans shall reflect the restrictions of the easement. Prior to the issuance of a building permit, final landscape plans shall be submitted for review and approved by the Planning Director.
12. This permit shall expire on one year after final planning approval, unless extended pursuant Malibu Municipal Code Section 9.4.23 (G).
13. Prior to issuance of a building permit, the property owners shall execute and record, in a form satisfactory to the City Attorney, a covenant running with the land providing that the property owners, and her successors in interest, will indemnify and defend the City of Malibu and

its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, whether incurred prior to or after the date of this Resolution, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks, or has sought, to challenge the validity of any of the City's actions or decisions.

Geotechnical

14. Prior to final planning approval, it is the reviewer's understanding, based on discussions with the applicant, that the applicant shall retain a hydrogeologic consultant to evaluate and model the groundwater under the site. The results of the exploration, monitoring, modeling and analyses shall be incorporated into a hydrogeologic report, and two copies of the report must be submitted to City geotechnical Staff for review.

15. Prior to final planning approval, a comprehensive site drainage plan incorporating the Project Geotechnical Consultant's recommendations shall be submitted to City geotechnical Staff for review. The drainage plan shall include details for all measures to mitigate the shallow groundwater conditions underlying the site. All French drains, basement subdrains, retaining wall backdrains, and other subsurface nonerosive drainage devices must be included on the plan.

16. City Guidelines require installation of a subdrain beneath the long axis of the swimming pool, where feasible. Prior to final planning approval, the applicant shall provide specific recommendations for a swimming pool subdrain and as suitable outlet. The plans shall include a detail for the swimming pool subdrain and outlet as recommended by the Project Geotechnical Consultant.

17. All foundation excavations must be observed and approved by the Project Engineering Geologist and/or Project Geotechnical engineer prior to placement of reinforcing steel.

Storm Water/Drainage

18. The City Engineer shall impose best management practices (BMP's) to control erosion and manage storm water.

19. Vegetation shall be planted on the bluff face to screen the two existing down-drains (or other measures acceptable to the Public Works Director).

20. This project shall comply with all of the requirements of Article V, Chapter 4 of the City Municipal Code – Storm Water and Urban Runoff Pollution Control.

21. Onsite drainage construction will be in substantial conformance with "Hydrology, Control Structure, Detention System and Conveyance Study, 24920, 24910 and 24900 Pacific Coast Highway", latest revision dated September 25, 1999.

Section 5. Certification.

The City Clerk shall certify the adoption of this Resolution. PASSED, APPROVED AND ADOPTED this 9th day of September, 2002.

JEFF JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.5.00 of the Malibu Municipal Code and Code of Civil Procedure Section 1094.6

**APPEAL OF PLANNING COMMISSION DECISION APPROVING SITE
PLAN REVIEW 00-083 FOR A SINGLE FAMILY DWELLING LOCATED AT
24920 PACIFIC COAST HIGHWAY (SILVER PROJECT)**

^{or}
24950

Patt Healy and/or Malibu Coalition for Slow Growth appeals the decision of the Planning Commission for this project on the grounds that the Planning Commission erred in making the following findings that are required to approve this project :

*The Planning Commission found that project provides maximum feasible protection to significant public and private views.

(These views are not protected to the maximum feasible extent.)

*The Planning Commission found that the project is consistent with the General Plan.

(This project is inconsistent and does not comply with the General Plan, including and not limited to the following General Plan policies and implementation measures :

LU Policy 1.1.5, LU Implementation Measure 8 and 28).

Contact: Patt Healy phone : 310-393-1818 or 589-0920

Mailing address: 403 San Vicente Blvd. Santa Monica CA 90402

Patt Healy

RECEIVED
JUL 25 2002
PLANNING DEPT. *PH*

RESOLUTION NO. 02-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, APPROVING PLOT PLAN REVIEW NO. 00-129 AND CONDITIONALLY APPROVING SITE PLAN REVIEW 00-083 FOR A NEW TWO-STORY SINGLE-FAMILY RESIDENCE AT 24920 PACIFIC COAST HIGHWAY (ARTHUR AND KIMBERLY SILVER).

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On September 24, 2001, the Planning Director approved Plot Plan Review No. 00-129 and Site Plan Review 00-083 (Plan B), with conditions.
- B. On October 2, 2001, the Planning Department received Appeal No. 01-016 of the Planning Director's decision to approve an application for the construction of a new single-family residence.
- C. A public hearing was duly noticed and opened on November 19, 2001 for the Planning Commission, at which time the Commission continued the item to December 3, 2001.
- D. On December 3, 2001, the Planning Commission held a continued public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. At the conclusion of the hearing the Planning Commission directed staff to prepare a resolution denying the project (Plan B) and setting forth the written findings consistent with the Commission's deliberation.
- E. On December 11, 2001, Applicant becomes appellant, filed premature Appeal to City Council. The Planning Commission had not yet adopted its written findings; therefore there was not a final Planning Commission decision from which to appeal.
- F. On their own initiative, the applicants prepared revised plans (Plan C) in attempt to address the specific bases for denial of the application and requested that the application be approved conditionally on the incorporation of the proposed revisions.
- G. On April 1, 2002, the Planning Commission held a duly noticed public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. A motion was then passed to adopt the Resolution of Denial, denying the project (Plan B) and upholding the original Appeal No. 01-016.

- H. Following the Planning Commission meeting, the applicant submitted revised plans (Plan C) in response to concerns raised at the Planning Commission meeting.
- I. Upon review of revised plans (Plan C), staff required the applicant again prepare revised plans (Plan D) which addressed the specific bases for denial of the application and requested that the plans (Plan D) be approved conditionally on the incorporation of the proposed revisions.
- J. The City Council considered the applicant request for the Council to consider the revised plans (Plan D) on June 24, 2002, however, the Council remanded the project back to the Planning Commission for their review and consideration of Plan D.
- K. July 15, 2002, the Planning Commission held a duly noticed public hearing on the applicant appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information.
- L. Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposal (Plan D). The Planning Director has found that this project is listed among the classes of projects, that have been determined to not have significant adverse effect on the environment, and shall therefore be exempt from the provisions of CEQA (a Class 3 (a) CATEGORICAL EXEMPTION).

Section 2. Plot Plan Review Approval.

The proposed development has been reviewed for conformance with the development standards of the City of Malibu Interim Zoning Ordinance (IZO) and has been determined to conform to all setback, structure size, 2/3rds rule, grading, basement, landscaping, and parking requirements. Based on the foregoing findings and the evidence in the record, the plot plan review is hereby approved, subject to approval of the Site Plan Review.

Section 3. Site Plan Review Approval and Findings.

Based upon the evidence in the record, including all written and oral testimony, the City Council hereby approves Site Plan Review No. 00-083 for the increased height above the base 18 feet, subject to the conditions contained in Section 4, based upon the following findings:

- 1. That the project does not adversely affect neighborhood character in that the project is designed in such a manner as to reduce the overall appearance of bulk and mass. This is achieved by locating the structure on only 51 percent of the lot width, by setting the structure back a considerable distance from Pacific Coast Highway, and by having the majority of the structure as single story. The residence as proposed represents the maximum structure bulk and mass.

2. That the project protects the natural resources and complies with the City's land use policies, goals and objectives as defined by staff, in that the applicant will detain stormwater on site so that there is no net increase in downstream quantities and the coastal bluff is protected from erosion and failure.
3. That the project provides maximum feasible protection to significant public and private views. The maximum height of the proposed structure is to be located at a mean sea level elevation of 153.5, 9.78 feet below the centerline mean sea level elevation of 163.28-feet for Pacific Coast Highway. Public and private views within definition of the IZO are maintained to the maximum feasible extent.
4. That the project does not affect solar access in that the structure is proposed to be located at least 50 feet from the west property line and at least 80 feet from the property line on the east, both sufficient distances from structures on adjacent properties so that there will be no interference with solar access.
5. That the project will not adversely affect the City's ability to prepare a General Plan in that the City has already prepared and adopted a General Plan.
6. That the project is consistent with the General Plan in that it complies with the policies and implementation measures including, but not limited to the following:

LU Policy 1.1.1: The City shall protect the natural environment by regulating design and permitting only land uses compatible with the natural environment.

LU Policy 1.1.3: The City shall control surface runoff into coastal waters, wetlands, and riparian areas.

LU Policy 1.1.5: The City shall require careful site planning which blends development with the natural topography.

LU Policy 1.3.1: The City shall require proposed development to avoid geologic safety hazards created by development.

LU Implementation Measure 3: Regulate grading and excavation to minimize impacts of construction on water quality and natural resources. These regulations shall require the use of best management practices (BMP's) to control erosion and manage storm water. These BMP's may include the use seasonal and mandatory year round control measures such as tarps, sandbag dams, on site retention of first flush rain, temporary drainage courses and erosion control measures, de-silting pounds, sediment traps, filter fencing, straw bales and catch basin filtration.

LU Implementation Measure 5: Evaluate any increase in peak flow rate from surface runoff for proposed projects and mitigate any adverse impacts to property or the

environment Require a drainage control system, including on-site retention or detention where appropriate for all new development. Storm runoff control systems shall be designed to ensure that the maximum rate of storm water runoff does not exceed peak level that existed prior to development.

LU Implementation Measure 8: Require that development respect public and private views and view corridors to the greatest extent feasible.

LU Implementation Measure 23: Implement regulations, such as those of the Los Angeles County Consolidated Fire Protection District, to minimize the risk of loss of life and property as a result of fire.

LU Implementation Measure 28: Site and design development to protect public views from scenic roadways to and along the shoreline and to scenic coastal areas, including public parklands.

CON Policy 1.2.7: The City shall reduce impacts resulting from night lighting so as not to disturb natural habitats.

CON Implementation Measure 28: Require all exterior lighting to be low intensity and shielded to reduce its visibility from surrounding areas and to minimize impact to wildlife. Maintain dark corridors as a priority.

7. That the proposed project complies with all applicable requirements of state and local law in that conditions have been added as part of this approval to require compliance with all applicable state and local requirements.

Section 4. Conditions of Approval.

General/Planning

1. The permit and rights conferred in this approval shall not be effective until the applicant signs and returns the affidavit accepting the conditions set forth below. The applicant shall file this form with the Planning Department within 30 days of the Planning Commission's decision.
2. This Resolution of appeal shall be copied in its entirety and placed directly onto separate plan sheets behind the cover sheet of the development plans prior to submitting to the California Coastal Commission and the City's Building and Safety Department for plan check.
3. The Planning Director is authorized to make minor changes to the approved plans or any of the conditions if such modifications shall achieve substantially the same results, as would strict compliance with said plans and conditions.

4. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the plans on file with the Planning Department (Plan D, dated April 16, 2002). In the event the project plans conflict with any condition of approval, the condition shall control.
5. All structures shall conform to the Building and Safety Department, Engineering Services, Geology, Environmental Health, Archaeology, Biology, Los Angeles County Fire Department and the California Coastal Commission requirements and conditions.
6. Prior to final building approval and certificate of occupancy, the applicant shall receive Planning Director approval for compliance with all conditions of approval.
7. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights there under.
8. All exterior lighting shall be low intensity and shielded to reduce the visibility to surrounding areas and to minimize impacts to wildlife.
9. Pool equipment shall be located adjacent to the west wall of the proposed residence, and enclosed by solid walls.
10. All landscaping areas shall be planted and maintained as described in the landscape and fuel modification plan. Failure to comply with the landscape conditions is a violation of these conditions of approval. Landscaping shall be used to soften views of the structure as seen from Pacific Coast Highway and surrounding properties.
11. To preserve public and private views from Pacific Coast Highway to the Pacific Ocean, prior to issuance of a building permit, the applicant shall record a landscape easement in favor of the City of Malibu, which provides that landscaping may not exceed twenty-five feet (25') above natural grade or 42" above the centerline elevation (163.28-feet) of Pacific Coast Highway, whichever is more restrictive. The easement shall be recorded and in force for the life of the project. The landscape plans shall reflect the restrictions of the easement. Prior to the issuance of a building permit, final landscape plans shall be submitted for review and approved by the Planning Director.
12. This permit shall expire on one year after final planning approval, unless extended pursuant Section 9.4.23 (G) of the Malibu Municipal Code.
13. Prior to issuance of a building permit, the property owners shall execute and record, in a form satisfactory to the City Attorney, a covenant running with the land providing that the property owners, and her successors in interest, will indemnify and defend the City of Malibu and its officers, employees and agents from any action to set aside, void or annul the City's actions concerning this project, whether incurred prior to or after the date of this Resolution, including (without limitation) any award of litigation expenses in favor of any person or entity who commenced the legal challenge.

14. The "trellis-like" structure projecting from the west facade of the residence shall be limited to the height, size, bulk, projection and location as depicted on Plan "D" dated April 16, 2002. No additional trellis-like structure shall be added to the project site.

Geotechnical

15. Prior to final planning approval, it is the reviewer's understanding, based on discussions with the applicant, that the applicant shall retain a hydrogeologic consultant to evaluate and model the groundwater under the site. The results of the exploration, monitoring, modeling and analyses shall be incorporated into a hydrogeologic report, and two copies of the report must be submitted to City geotechnical staff for review.

16. Prior to final planning approval, a comprehensive site drainage plan incorporating the Project Geotechnical Consultant's recommendations shall be submitted to City geotechnical staff for review. The drainage plan shall include details for all measures to mitigate the shallow groundwater conditions underlying the site. All French drains, basement subdrains, retaining wall backdrains, and other subsurface nonerosive drainage devices must be included on the plan.

17. City Guidelines require installation of a subdrain beneath the long axis of the swimming pool, where feasible. Prior to final planning approval, the applicant shall provide specific recommendations for a swimming pool subdrain and as suitable outlet. The plans shall include a detail for the swimming pool subdrain and outlet as recommended by the Project Geotechnical Consultant.

18. All foundation excavations must be observed and approved by the Project Engineering Geologist and/or Project Geotechnical engineer prior to placement of reinforcing steel.

Storm Water/Drainage

19. The City Engineer shall impose best management practices (BMP's) to control erosion and manage storm water.


20. Vegetation shall be planted on the bluff face to screen the two existing down-drains (or other measures acceptable to the Public Works Director).

21. This project shall comply with all of the requirements of Article V, Chapter 4 of the City Municipal Code – Storm Water and Urban Runoff Pollution Control.

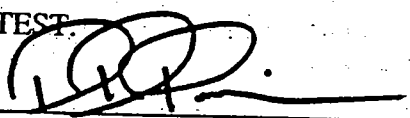
22. Onsite drainage construction will be in substantial conformance with "Hydrology, Control Structure, Detention System and Conveyance Study, 24920, 24910 and 24900 Pacific Coast Highway", latest revision dated September 25, 1999, or any subsequent reports accepted and approved by the City Engineer and the City Geologist.

Section 5. Certification.

The Planning Commission Secretary shall certify the adoption of this Resolution.
PASSED, APPROVED AND ADOPTED this 15th day of July, 2002.


RICHARD CARRIGAN, Planning Commission Chair

ATTEST:


DREW D. PURVIS, Planning Commission Secretary

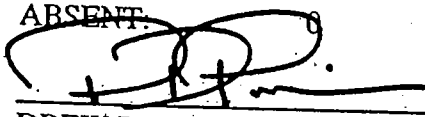
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 02-17 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 15th day of July, 2002, by the following vote:

AYES: Chair Carrigan, Commissioner Fox, Lipnick, Roney, and Adler

NOES: 0

ABSTAIN: 0

ABSENT: 0


DREW D. PURVIS, Planning Commission Secretary

Any person aggrieved by this decision or by any portion of this decision may appeal to the City Council. Pursuant to Section 9.5.76 (B) of the Malibu Municipal Code, any such appeal must be filed with the City Clerk no later than 10 days following July 15, 2002, the date of final action.

City of Malibu
Minutes
Planning Commission Meeting
Hughes Research Laboratories
Monday, July 15, 2002
6:30 P.M.

CALL TO ORDER

Chair Carrigan called the Planning Commission meeting to order at 6:35 p.m.

ROLL CALL The following people were recorded in attendance by the Recording Secretary:

COMMISSIONERS:

PRESENT: Commissioners Robert Adler, David Fox, Ed Lipnick, Dierdre Roney, and Chair Carrigan.

ABSENT: None.

STAFF: Christi Hogin, City Attorney; Drew Purvis, Planning Director; Stacey Rice, Ph.D., Senior Planner; Rick Morgan, City Engineer; Christopher Dean, City Geologist and Lisa Tent, Recording Secretary

FLAG SALUTE

Vice Chair Fox led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Commissioner Roney moved, seconded by Vice Chair Fox, to approve agenda as posted. Motion carried without objection.

ITEM 2 WRITTEN AND ORAL COMMUNICATION FROM THE PUBLIC

A. COMMUNITY COMMENTS

John Mazza (6613 Zumirez Drive) stated he felt an approved project on Grasswood was an obvious zoning violation, and asked for the City Council or Planning Commission to review it.

B. COMMISSION/STAFF COMMENTS

Planning Director Purvis informed the Planning Commission the Planning Department will be receiving the Forge Lodge EIR, a 32 unit Bed and Breakfast within the week, and expects the final draft EIR, with responses and comments, to come before the Commission for certification and project proposal in about six weeks.

Chair Carrigan stated the old Land Use Subcommittee, now renamed the IZO and Code Enforcement Subcommittee, traditionally involves two members from the Planning Commission. He stated that historically the Chair and Vice Chair serve as advisors to that committee; however, due to Vice Chair Fox's work schedule, there is the need for a volunteer from the

Commission to serve on that committee. Commissioner Adler volunteered to serve with Chair Carrigan as an advisor to the IZO and Code Enforcement Subcommittee.

ITEM 3 **CONSENT CALENDAR**
A. PREVIOUSLY DISCUSSED ITEMS

1. None

B. NEW ITEMS

1. Approval of Minutes

Staff Recommendation: Approve minutes of May 20, 2002 regular Planning Commission meeting.

MOTION Commissioner Fox moved, seconded by Commissioner Lipnick to approve minutes. Motion passed 3-0 with Commissioners Adler and Roney abstaining.

2. Approval of Minutes

Staff Recommendation: Approve minutes of June 3, 2002 regular Planning Commission meeting.

MOTION Commissioner Fox moved, seconded by Commissioner Lipnick to approve minutes. Motion passed 4-0 with Commissioner Roney abstaining.

ITEM 4 **CONTINUED PUBIC HEARINGS**

A. None

ITEM 5 **NEW PUBIC HEARINGS**

- A. PLANNING COMMISSION APPEAL NO. 01-016-** A reconsideration of an appeal of the Planning Director's decision to approve the applicant's "Plan B" for the construction of a new two-story single-family residence above the base 18-feet but not to exceed 28-feet in height (PPR 00-129 / SPR 00-083). Consideration will be given to the applicant's proposed "Plan D" conditions on the project, and public and private views of the ocean.

APPEALLANT: Ron Goldman
APPLICANT: Barsocchini & Associates
OWNER: Arthur and Kimberly Silver
LOCATION: 24920 Pacific Coast Highway
PLANNER: Stacey Rice, Ph.D., Senior Planner, ext. 265

Staff Recommendation: Adopt Resolution No. 02-17 denying Appeal Number 01-016 and conditionally approving the proposed project plans (Plan D), received by the Planning Department on April 16, 2002.

Chair Carrigan asked City Attorney Hogin to address a letter received from Attorney Kozal which, he stated, was an attempt to limit the Commission review to the four items of the appeal. Chair Carrigan reminded Attorney Kozal the resolution before the Commission is to

1 approve Plot Plan Review and Site Plan Review which may involve issues beyond the appeal.

2
3 City Attorney Hogin stated this application had an unusual history and was not an
4 ordinary appeal because it was brought back to the Commission on remand from the
5 City Council. She stated the City Council wanted the Commission to look at and consider newly
6 proposed changes to the project, addressing issues raised by staff and the neighbors.

7
8 Commissioner Lipnick asked City Attorney Hogin if the Commission's decision was a
9 recommendation to the City Council, or was it a final decision, and furthermore, if the decision is
10 appealable.

11
12 City Attorney Hogin stated the decision before the Commission is a final decision if not appealed
13 within 10 days. She stated there is no live appeal before the City Council regarding this matter.

14
15 Commissioner Roney clarified what was remanded to the Commission was the four items of the
16 appeal.

17
18 City Attorney Hogin stated what was before the Commission were those four items of the appeal
19 and also the consideration of "Plan D" verses "Plan B". She stated the City Council is very
20 anxious to develop a more disciplined approach to appeals and appealable issues. She stated
21 some of the issues of the original appeal may have been corrected in the proposal of "Plan D".

22
23 Commissioner Fox clarified in addition to approving the application, the Commission would
24 need to make the findings denying the appeal.

25
26 City Attorney Hogin stated the appeal before the Commission is the Silver appeal not the
27 Goldman appeal.

28
29 Commissioner Lipnick stated he has in the past lobbied the City Council regarding the issue of
30 appeals, they should hear the same matter that has come before the Planning Commission. He
31 stated the Planning Commission should be the first to consider any proposed changes to a
32 project and feels the City Council is doing so by having the Planning Commission consider "Plan
33 D".

34
35 Chair Carrigan stated one of the items Staff is working on, to be placed on the next agenda, is a
36 discussion of the appeal process. He stated he would like this appeal to proceed as follows:
37 Staff will give an oral presentation; the City Engineer, as well as the City Geologist, will speak to
38 the Commission on the issues of drainage and slope stability; the Commission will then be able
39 to address any questions of Staff. The appellant / applicant will then be allowed to speak and
40 make a presentation, and finally Ron Goldman will speak.

41
42 Senior Planner Stacey Rice, Ph.D., presented an oral staff report to the Commission.

43
44 City Engineer Rick Morgan stated from an engineering and drainage standpoint, the project is
45 being conditioned due to the concern of existing high groundwater on the site, as well as that
46 which exists on the adjacent properties.

47
48 City Geologist Christopher Dean stated originally when an application was received on the
49 property in 1977, the issue was stability of the bluff. He stated in the year 2000, when the current
50 applicant submitted a geology report the levels of ground water had risen; however, City
51

1 Geologist Dean stated in 2001 the application was given an approval in concept and the project
2 was conditioned and specific recommendations made. The conditions included the mitigation of
3 the high ground water levels and the applicant is currently conducting a site specific hydro-
4 geologic study of the property although the findings have yet to be presented.

5
6 Commissioner Lipnick asked Staff if building the house and the proposed impermeable
7 coverage would increase the ground water on site. City Geologist Dean stated more
8 impermeable coverage would allow the site to drain more adequately due to more surface and
9 subsurface drainage control. Commissioner Lipnick asked what type of drainage systems could
10 be installed to help control the dewatering process. City Geologist Dean stated they were
11 waiting for findings and recommendations, however, horizontal wells is one option as is
12 dewatering by pumps.

13
14 Commissioner Adler asked Staff how the storm drain should be monitored. City Engineer, Rick
15 Morgan stated the City has in place an annual certification requirement which must be
16 submitted to insure the monitoring system is operational and functional.

17
18 City Geologist Dean stated the study must address the stability of the site and insure that
19 mitigation will not exasperate the stability of the site.

20
21 Commissioner Adler asked staff to address the stability of the land in regards to treating
22 liquefaction. City Geologist Dean stated liquefaction occurs when high ground water and loose
23 sand conditions exist. He stated because the site is above sea level and on bed rock, it is not
24 subject to liquefaction.

25
26 Commissioner Roney asked City Attorney Hogin if public safety issues are part of what the
27 Planning Commission decides on; and furthermore, what is the Planning Commission's role with
28 respect to safety issues.

29
30 City Attorney Hogin stated public safety was not an issue for the Commission to decide.

31
32 Commissioner Roney stated Mr. Greg Aftergood, a neighbor of the proposed project,
33 expressed concerns with regard to geological reports that have not been received, and asked
34 how can the public comment on those reports once they are submitted.

35
36 City Geologist Chris Dean stated all geology files are public record. He stated as project reports
37 stand at this time, the applicant has shown the ability to mitigate the concerns, and when the
38 new report is submitted; geology will conduct a complete review.

39
40 City Attorney Hogin stated these reports are public record and can be reviewed and/or
41 challenged at any time.

42
43
44 Chair Carrigan asked Staff to state for the record the dimension of the trellis. Senior Planner
45 Rice stated on Plan D the trellis is 92 feet long, 16 feet wide, the wood columns are 2 feet wide
46 x 18 inches. Chair Carrigan asked Planning Director Purvis if the Commission did not agree this
47 is a trellis, was it possible to define it as an architectural projection and would it continue to be
48 exempt from square footage. Planning Director Purvis stated that was correct.

PUBLIC HEARING OPENED

Attorney Kevin Koza, speaking on behalf of the Silvers, urged the Commission to follow Staff's recommendation. He stated it was inappropriate for the Planning Commission to adopt a landscape condition, and felt the City Geologist should wait to provide any additional conditions until after any further geological studies are completed and submitted.

Commission Lipnick stated he met with the Silvers at his home and discussed the property's appearance from Pacific Coast Highway and its relation to the neighbor's property. He stated they discussed the possibility of a landscape easement and their willingness to agree to one.

Commissioner Fox stated he met with the Silvers and Mike Barsocchini at Mr. Barsocchini's office, where they reviewed exhibits and the Silvers commented on Mr. Goldman's concerns.

Commissioner Adler stated on July 9, 2002 he attended a site visit with Chair Carrigan, where they acted as observers of a meeting between the Silvers, Tony Danza, Greg Aftergood, Marty Cooper, Shelly Rosenberg and Ryan Silver. He stated the meeting was directed toward the Silver's and various issues were discussed with an emphasis on water and drainage. He stated on July 11, 2002, he and Chair Carrigan met with Ron Goldman at Mr. Goldman's office and discussed his concerns with the project. Commissioner Adler stated he met with staff on several occasions and reviewed numerous letters from concerned neighbors.

Commissioner Roney stated she went to the site on July 15, 2002, walked the front of the property on Pacific Coast Highway, walked the parking lot and courtyard from across Pacific Coast Highway. She stated she went down to Malibu Road and walked the bluff below the subject property. She stated she received the same material as the other Commissioners and spoke to Kimberly Silver several times by phone, with respect to where to fax documents.

Chair Carrigan stated he subscribed to the disclosure of Commissioner Adler, and in addition met with the Silvers at their home on July 13, 2002, where they discussed Ron Goldman's concerns regarding total development square footage, the trellis, and the landscape easement. Chair Carrigan stated he met with former Commissioner Vaill to review Plan D and to discuss his concern with the project regarding total development square footage.

William Dale Brantley (1505 4TH Street, Suite 300, Santa Monica) stated, as an independent Architect, he was retained by the Silvers to review the project plans. He stated the habitable area is under 11,000 square feet, feels the trellis should be considered an architectural projection, and that the project conforms to the code in height, use and square footage.

Ron Goldman stated this Plan D is an improvement; however, his concern is with setting a precedent. He stated if there is a determination made that this is a trellis, the applicant could continue to add on to it in the future, without further approval. He encouraged Staff and the IZO Subcommittee to clearly define what is allowable regarding decks/basements in relation to square footage. He stated he does have an issue with landscaping and feels strongly that there should be a condition to limit the height of it.

William Dale Brantley stated decks should not be included in total development square footage. He stated the trellis is not view hampering and that the intent of the code has been met by the applicant.

DRAFT

Commissioner Adler asked Attorney Kozal if at this time the applicant is asking the Planning Commission to follow the code in deciding this item. Attorney Kozal stated yes that is correct.

Kimberly Silver, thanked the Planning Commission, the City Council, the City Attorney and the Planning Staff for allowing the revised set of plans, called (Plan D) to be reviewed and considered in this matter. She stated staff has worked closely with her in an effort to bring the project in compliance with the code. Ms. Silver stated she was sensitive to the concerns of her neighbors; however, respectfully asked the Commission to permit her family to build their home.

John Mazza (6613 Zumirez Drive) stated his concerns are with the view corridor, the trellis, the basement not being counted as square footage, and the stability of the property.

Marilyn Dove (24958 Malibu Road) stated she has serious concerns with the drainage plan for the project. She suggested the Planning Commission do more research on this project before approving it.

Norman R. Haynie (22761 Pacific Coast Highway) stated this basement meets the criteria by which basements are currently calculated in the zoning ordinance. He stated he would like to see the issue of impermeable surfaces and their restrictions re-examined in the near future

Ted Vaill (20249 Inland Lane) a resident of Malibu and former Planning Commissioner stated his main concern is with the overall size and massiveness of the structure. He stated either the decks or the basement, should be counted as square footage, feels the trellis is actually a colonnade, and the drainage issue is a problem the City may need to address in the future.

PUBLIC HEARING CLOSED

Commissioner Lipnick stated that overall the applicant has met the requirements of the Interim Zoning Ordinance. He stated he is convinced the four issues have been addressed and thanked Attorney Kozal for his letter on this matter. Commissioner Lipnick stated he felt the issue of view was one of public not private, and because the house would be below Pacific Coast Highway, it was not an issue. He stated the trellis, decks and basements should not be counted as square footage. Commissioner Lipnick stated the applicant has met the burden of compliance and the findings have been met. He stated he would vote to approve the project.

Vice Chair Fox stated he agrees with Commissioner Lipnick in that this is a huge home on a site that is precious to the citizens of Malibu because of its view; however, he feels the Silvers have aggressively attempted to comply with the intent and spirit of the current law. He stated the Planning Staff, the City Geologist, the City Engineer, and even Ron Goldman agree this project complies with the code. He stated he also agrees this project complies to the current code, and can make the findings and approve the project.

Commissioner Adler stated the General Plan and the IZO provide the guidelines and the rules of reason. He commends the Silvers for their attempts to make the project comply with the code. He stated the one central problem with the project is the garage/basement not being counted as square footage. Commissioner Adler stated the City has Article 9 (IZO) to act as a tool by which the City should be governed, and to do so for all the people, not just some of the people. He stated he feels the item in question is not a trellis; however, under the current code it would not be counted as square footage. He strongly urges the Commission to condition the project with regards to the trellis, in an attempt to prohibit any additional proliferation of it in the

future. He stated based on the issue of the square footage and in following Article 9, he cannot vote to support the project.

Commissioner Roney stated three of the four issues the City Council asked the Commission to look at have been resolved, and feels the issue of view impairment from Pacific Coast Highway would be mitigated with a view protection easement. She stated compared to current view impairment from Pacific Coast Highway, this project is consistent with that which has been allowed in the past. Regarding the trellis and the garage, she has found it difficult to find guidelines, which would help her to make a decision, however feels the structure fits into the current rules as to what a basement is. She stated she would support the City Council in amending the IZO to count trellis and basements in square footage calculations, and that it would help the City Council, Planning Commission and Staff to clarify and strengthen the IZO. Commissioner Roney stated it is not appropriate to use the Silvers as an example as to what is wrong with the current code by denying this project. She stated the lesson from this would be to change the policy in the future. She stated she would vote to approve the project.

Chair Carrigan stated he would like to address three issues of concern which are drainage, view corridor and total development square footage. Regarding drainage, based on the report and comments from the City Geologist and the City Engineer, he believes the project is sufficiently conditioned to deal with the existence of high groundwater. He requests staff and the Silvers make the hydro-geologic reports available to Greg Aftergood ASAP! Regarding the issue of view corridor, he stated it is a public view corridor from Pacific Coast Highway and based on material in the staff report as well as the certified story poles and measurements taken from Pacific Coast Highway, the structure is consistent with what the City has approved in the past. The heights of the proposed Silver residence are lower in every parameter relative to the centerline of Pacific Coast Highway than the 18 foot high City approved, Coastal approved new Gable residence immediately adjacent to the east of the Silver property. The proposed Silver home is roughly ten feet below the centerline elevation of Pacific Coast Highway whereas the Trento residence (3 lots to the west of the Silver property) is two feet above the centerline elevation of Pacific Coast Highway. He stated he respectfully disagrees with former Commissioner Ted Vaill regarding total development square footage, and feels the project has been designed, re-designed and thoroughly reviewed by staff as well as the Commission.

Chair Carrigan congratulated Commissioner Adler on his research with regards to basements/garages and stated he supports Commissioner Adler's remarks on the trellis and the suggestion of conditioning that part of the project, in an attempt to prevent any further proliferation of that part of the structure. He stated in this instance, the system has worked because of citizen input, and feels the City, the Community, the Planning Department and the Planning Commission owe a dept of gratitude to Ron Goldman, for helping to prevent a mistake from occurring. He stated the issue of clarifying the definition of basements would come before the IZO Subcommittee, then to the Planning Commission and eventually on to the City Council. He stated he agreed with his fellow Commissioners and would vote to support the project.

Planning Director Purvis stated the City Attorney has requested modifications to two conditions of approval. Commissioner Fox asked staff if the City Attorney's comments are in respect to Condition #21. Planning Director Purvis stated they were in respect to Condition No. 13 and No. 21.

Chair Carrigan asked staff if the two modifications were those that were suggested by Mr. Kozal in his letter. Staff responded that was correct.

MOTION Commissioner Fox moved, seconded by Commissioner Lipnick to adopt Resolution No. 02-17 denying Appeal No. 01-016 and conditionally approving the proposed project plans (Plan D), received by the Planning Department on April 16, 2002, with the City Attorney's noted changes. The motion carried 5-0.

Chair Carrigan directed staff to work with the City Attorney and draft a condition to prohibit any further proliferation of the trellis structure. He clarified this motion would incorporate the City Attorney's changes to Conditions 13 and 21, and modify to add a condition limiting the existing so-called trellis to its current size, scope and location and prohibiting the applicant from adding to it. He directed staff to provide a revised resolution for his review and signature.

ITEM 6 OLD BUSINESS

A. None

ITEM 7 NEW BUSINESS

A. None

ADJOURNMENT

MOTION At 9:30 p.m. Commissioner Lipnick moved, seconded by Commissioner Roney, to adjourn to August 5, 2002. The motion carried 5-0.

Respectfully submitted,

Drew D. Purvis
Planning Commission Secretary



PLANNING REVIEW

City of Malibu

23555 Civic Center Way, Malibu, California 90265
(310) 456-CITY Fax (310) 456-3356

City geotechnical staff

GEOLOGY AND GEOTECHNICAL ENGINEERING REVIEW SHEET

Guidelines for geotechnical reports (dated February 2002) are available on the City of Malibu web site: <http://www.ci.malibu.ca.us/index.cfm?fuseaction=nav&navid=30>. All geotechnical reports, including update reports, submitted with a date of February 1, 2002 or later will be reviewed for compliance with these guidelines.

Site Address: 24950 Pacific Coast Highway
Lot/Tract/PM #: n/a
Applicant/Phone #: Kimberly Silver-Young/310-589-7085
Architect/Engineer: Barsocchini & Associates
Project Type: Revised Project (Plan D): New 11,158 square foot two-story single-family residence with 5,500 square foot basement (includes 6-car garage), swimming pool, grading, drainage, retaining walls, dewatering

Date: June 28, 2002

City Log #: 1932

BYA Project #: 49.17691.0001

Planning #: PPR 00-129

BPC/GPC #: n/a

Geotechnical Engineer: GeoSoils Consultants, Inc. (Miller, RGE 2257)

Geotechnical Report(s) dated: 3-22-01, 1-23-2001, 1-3-2000, 9-8-99, 6-4-99, 4-14-99, 11-5-98, 10-13-98, 7-27-98, 2-25-98, 1-14-98, 10-22-97, 9-4-97, 4-16-97, 11-1-95; Ref: 11-3-2000, 9-11-2000, 8-11-2000 (for 24910 PCH)

Previous Geotechnical Reviews dated: 4-24-01, 2-19-01, 11-11-99, 7-6-99, 11-18-98, 8-25-98, 3-20-98, 2-2-98, 11-11-97, 9-29-97, 7-29-97

Engineering Geologist: GeoSoils Consultants, Inc. (Sherman, CEG 1036)

Geologic Report(s) dated: 3-22-01, 1-23-2001, 1-3-2000, 9-8-99, 6-4-99, 4-14-99, 11-5-98, 10-13-98, 7-27-98, 2-25-98, 1-14-98, 11-5-97, 10-22-97, 9-4-97, 4-16-97, 11-1-95; Ref: 11-3-2000, 9-11-2000, 8-11-2000 (for 24910 PCH)

Previous Geology Reviews dated: 4-24-01, 2-19-01, 11-11-99, 7-6-99, 11-18-98, 8-25-98, 3-20-98, 2-2-98, 11-11-97, 9-29-97, 7-29-97

Civil Engineer: Servec Consultants, Inc. (Watanabe, RCE 20024)

Grading Plan dated: 10-18-2000

Building Plans dated: 4-16-02

RECOMMENDATION:

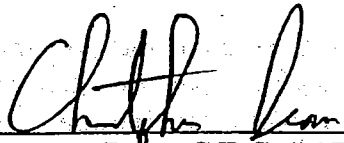
- ☒ The revised project is **APPROVED** "in-concept" in the **PLANNING** stage from a geotechnical perspective. The Project Geotechnical Consultant and applicant shall address the following items prior to Building plan check stage approval (See "Items to be Addressed" below).

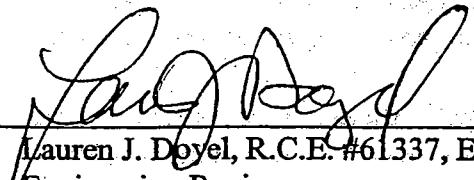
ITEMS TO BE ADDRESSED PRIOR TO BUILDING PLAN CHECK STAGE APPRO

1. The title sheet of the plans, Sheet A.1, denotes RJR Engineering Group as the Geotechnical Consultant of record. In accordance with Section 3.2.5 of the City's Guidelines, an update engineering geologic and geotechnical engineering report shall be prepared which addresses the change in consultants, changes in the scope of the project, including providing additional recommendations, as necessary, as well as the responses to the following comments. Two copies of the report shall be submitted to City geotechnical staff for review.
2. It is the reviewers' understanding, based on discussions with the applicant, that the applicant has retained a hydrogeologic consultant to evaluate and model the groundwater under the site. The results of the exploration, monitoring, modeling, and analyses shall be incorporated into a hydrogeologic report, and two copies of the report must be submitted to City geotechnical staff for review. The report shall address the pertinent comments below, as well as provide an evaluation of how the current groundwater levels affect the stability of the building site. Mitigation measures must be provided as necessary, including, but not limited to, recommendations for monitoring and dewatering across the site.
3. The reviewers acknowledge the additional groundwater monitoring well north of the existing wells (MW-10). However, the potential for the shallow groundwater condition extending across the entire building site must be evaluated by the Project Geotechnical Consultant so as to define conditions for designing a site-inclusive drainage system and proper foundation system for the residence. Additional subsurface exploration shall be performed north and west of the existing monitoring wells under the building site to further define the limits of this shallow groundwater. The results of this exploration shall be submitted to the City for review. The Project Geotechnical Consultant shall provide additional recommendations as necessary, based on this new information, regarding groundwater monitoring and dewatering across the entire site. The applicant's consultant should be aware that the capacity for dewatering might be limited by the formation materials on site, based on the dewatering results of the drainage gallery constructed at 29410 Pacific Coast Highway.
4. The reviewers are concerned that construction of the proposed hydrauger-drainage gallery dewatering system may be difficult. The Project Geotechnical Consultant shall provide specific information regarding how they will confirm the successful completion of the connection of the hydraugers and drainage gallery. One set of hydrauger-drainage gallery plans incorporating the Project Geotechnical Consultant's recommendations shall be submitted to City geotechnical staff for review.
5. A comprehensive site drainage plan incorporating the Project Geotechnical Consultant's recommendations shall be submitted to City geotechnical staff for review. The drainage plan shall include details for all measures to mitigate the shallow groundwater conditions underlying the site. All french drains, basement subdrains, retaining wall backdrains, and other subsurface nonerosive drainage devices must be included on the plan. The drainage plan must be wet stamped and manually signed by the Project Geotechnical Engineer and Project Engineering Geologist.

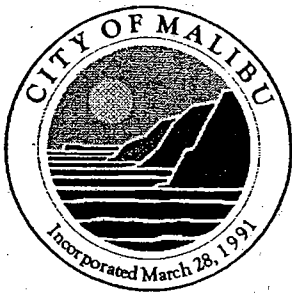
6. City Guidelines require installation of a subdrain beneath the long axis of the swimming pool where feasible. Please provide specific recommendations for a swimming pool subdrain and suitable outlet. Please include in the plans a detail for the swimming pool subdrain and outlet recommended by the Project Geotechnical Consultant.
7. The Project Geotechnical Consultant must provide specific recommendations for design of pile foundations. Slope stability analyses shall be provided which demonstrate that the piles provide long-term stability of the building site. The location of the 1.5 factor of safety line must be verified.
8. The applicant and Project Geotechnical Consultant should consider alternative methods of dewatering on the property, such as dewatering wells. Please discuss.
9. Please contact the Building and Safety Department regarding recording a covenant agreement for maintenance of all drainage facilities on the property.
10. The Project Geotechnical Consultant shall provide seismic earth pressure parameters for all retaining walls higher than 12 feet for the project as per Section 1611A.6 of the 1998 California Building Code. It should be noted that the grading plan depicts cuts for the basement up to 14 feet in height.
11. Foundation setbacks from descending slopes as per Section 1806.5 of the UBC shall be clearly depicted on the foundation plan, as necessary.
12. Please contact the Department of Building and Safety regarding the submittal requirements for a grading and drainage plan review.
13. Clearly depict the name, address, and phone number of the Project Geotechnical Consultant on the cover sheet of the grading, swimming pool, retaining wall, and building plans.
14. The following note must appear on the foundation plans: *"All foundation excavations must be observed and approved by the Project Engineering Geologist and/or Project Geotechnical Engineer prior to placement of reinforcing steel."*
15. An as-built compaction report documenting site grading must be prepared by the Project Geotechnical Consultant and submitted to the City for approval following completion of grading. The report must include the results of all density tests as well as a map depicting the limits of grading, locations of all density tests, locations and bottom elevations of all removal areas, locations and elevations of all keyway bottoms, and locations and flow line elevations for all keyway and retaining wall back drains and subdrains. Geologic conditions exposed during grading must be depicted on an as-built geologic map. Please include this comment as a note on the plans.

16. One set of grading, drainage, retaining wall, swimming pool, and residence plans in conformance with the Project Geotechnical Consultant's recommendations and items in this review sheet, submitted to the City. The plans will be reviewed by the City Geologist and engineering reviewer. Additional concerns may be raised at that time which may require a response from the Project Geotechnical Consultant and Applicant.

Reviewed by  Date: 6/28/02
Christopher Dean, C.E.G. # 1751, Exp. 9-30-02
City Geologist

Reviewed by  Date: 6-28-02
Lauren J. Doyel, R.C.E. #61337, Exp. 6-30-05
Engineering Reviewer

Bing Yen & Associates, Inc.
2310 East Ponderosa Drive, Suite 1
Camarillo, California 93010
(805) 383-0064 (Camarillo office)
(310) 456-2489, x306 (City of Malibu)



Council Agenda Report Supplemental

City Council Meeting
09-09-02

Item
4.A.

To: Mayor Jennings and Honorable City Council

Prepared by: Stacey Rice, Ph.D., Senior Planner

Reviewed by: Drew D. Purvis, Planning Director
Christi Hogin, City Attorney

Approved by: Katie Lichtig, City Manager

Date prepared: September 6, 2002

Meeting date: September 9, 2002

Subject: Appeal No. 02-006 - An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Foot in Height. The City Council Will Consider Public and Private Views of the Pacific Ocean and Consistency with the General Plan Land Use Policy 1.1.5, Land Use Implementation Measure 8 and Land Use Implementation Measure 28.

Attached please find a City Council Resolution No. 02-38 modified to include the changes that reflect the intent of the Planning Commission at the July 15, 2002 hearing. Changes limit the trellis-like structure to the amount contained in Plan D and allow for updated reports regarding on-site drainage. Please replace this resolution with the existing Attachment A.

RESOLUTION NO. 02-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DENYING APPEAL 02-006 AND APPROVING PLOT PLAN REVIEW NO. 00-129 AND CONDITIONALLY APPROVING SITE PLAN REVIEW 00-083 FOR A NEW TWO-STORY SINGLE-FAMILY BLUFF-TOP RESIDENCE AT 24950 PACIFIC COAST HIGHWAY (ARTHUR AND KIMBERLY SILVER).

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On September 24, 2001, the Planning Director conditionally approved Plot Plan Review No. 00-129 and Site Plan Review 00-083 (Plan B), with conditions.
- B. On October 2, 2001, the Planning Department received Appeal No. 01-016 of the Planning Director's decision to conditionally approve an application for the construction of a new single-family bluff-top residence.
- C. On November 19, 2001 there was a duly noticed public hearing for the Planning Commission, at which time the Commission continued the item to December 3, 2001.
- D. On December 3, 2001, the Planning Commission held a continued public hearing on the application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and related information. At the conclusion of the hearing the Planning Commission directed Staff to prepare a resolution denying the project (Plan B) and setting forth the written findings consistent with the Commission's deliberation.
- E. On December 11, 2001, Applicant files a premature Appeal to City Council (Appeal No. 01-020). The Planning Commission had not yet adopted its written findings, therefore there was not a final Planning Commission decision from which to appeal.
- F. On March 8, 2002, on their own initiative, the applicants prepared revised plans (Plan C) in attempt to address the specific bases for denial of the application and requested that the application be approved conditionally on the incorporation of the proposed revisions.
- G. On April 1, 2002, the Planning Commission held a duly noticed public hearing on the application, reviewed and considered the staff report, reviewed and considered

written reports, public testimony and related information. The Planning Commission then adopts the Resolution of Denial (01-039), denying the project (Plan B) and upholding Appeal No. 01-016.

- H. On April 16, 2002, upon review of revised plans (Plan C), Staff required the applicant again prepare revised plans (Plan D) which addressed the specific bases for denial of the application and requested that the plans (Plan D) be approved conditionally on the incorporation of the proposed revisions.
- I. On June 24, 2002 the City Council considered the applicant request for the Council to consider the revised plans (Plan D), however, the Council remanded the project back to the Planning Commission for their review and consideration of Plan D.
- J. On July 15, 2002 the Planning Commission held a duly noticed public hearing on the applicant appeal, reviewed and considered written reports, public testimony and related information and conditionally approved Plan D and adopted Resolution No. 02-017.
- K. On July 25, 2002 Patt Healy and/or the Malibu Coalition for Slow Growth appealed the decision of the Planning Commission on public views and consistency with the General Plan.
- L. Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed Plan D. The Planning Director has found that this project is listed among the classes of projects, that have been determined to not have significant adverse effect on the environment, and shall therefore be exempt from the provisions of CEQA (a Class 3 (a) CATEGORICAL EXEMPTION).

Section 2. Plot Plan Review Approval.

The proposed project conforms with the development standards of the Interim Zoning Ordinance, including but not limited to, all setback, structure size, 2/3rds rule, grading, basement, landscaping, and parking requirements, except that the project exceeds the 18 foot height limit in certain sections of the proposed new single-family residence. Based on the evidence in the record, the Plot Plan Review is hereby approved, subject to approval of the Site Plan Review application.

Section 3. Site Plan Review Approval and Findings.

Based upon the evidence in the record, including all written and oral testimony, the City Council hereby approves Site Plan Review No. 00-083 approving the increased height above the base 18 feet, subject to the conditions contained in Section 4, based upon the following findings:

- 1. That the project does not adversely affect neighborhood character in that the project is designed in such a manner as to reduce the overall appearance of bulk and mass. This is

achieved by locating the structure on only 51 percent of the lot width, by setting the structure back a considerable distance from Pacific Coast Highway, and by having the majority of the structure as single story. The residence as proposed represents the maximum structure bulk and mass.

2. That the project protects the natural resources and complies with the City's land use policies, goals and objectives as defined by Staff, in that the applicant will detain stormwater on site so that there is no net increase in downstream quantities and the coastal bluff is protected from erosion and failure.
3. That the project provides maximum feasible protection to significant public and private views. The maximum height of the proposed structure is to be located at a mean sea level elevation of 153.5, 9.78 feet below the centerline mean sea level elevation of 163.28-feet for Pacific Coast Highway. Public and private views within definition of the Interim Zoning Ordinance are maintained to the maximum feasible extent.
4. That the project does not affect solar access in that the structure is proposed to be located at least 50 feet from the west property line and at least 80 feet from the property line on the east, both sufficient distances from structures on adjacent properties so that there will be no interference with solar access.
5. That the project will not adversely affect the City's ability to prepare a General Plan in that the City has already prepared and adopted a General Plan.
6. That the project is consistent with the General Plan in that it is a single-family residence being constructed according to the City's standards on property designated in the General Plan for this type of development.
7. That the proposed project complies with all applicable requirements of state and local law in that conditions have been added as part of this approval to require compliance with all applicable state and local requirements.

Section 4. Conditions of Approval.

General/Planning

1. The undersigned property owner (or the agent of the property owner) acknowledges receipt of the City of Malibu City Council's decision of approval and agrees to abide by all terms and conditions thereof. The permit and rights conferred by this approval shall not be effective until the signed acknowledgement has been **notarized** and returned to the City of Malibu, no later than **30 days of the City Council's decision.**
2. This Resolution of appeal shall be copied in its entirety and placed directly onto **separate plan sheets behind the cover sheet** of the development plans prior to submitting to the California Coastal Commission and the City's Building and Safety Department for plan check.

3. The Planning Director is authorized to make minor changes to the approved plans or any of the conditions if such modifications shall achieve substantially the same results, as would strict compliance with said plans and conditions.
4. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the plans on file with the Planning Department (Plan D, dated April 16, 2002). In the event the project plans conflict with any condition of approval, the condition shall control.
5. All structures shall conform to the Building and Safety Department, Engineering Services, Geology, Environmental Health, Archaeology, Biology, Los Angeles County Fire Department and the California Coastal Commission requirements and conditions.
6. Prior to final building approval and certificate of occupancy, the applicant shall receive Planning Director approval for compliance with all conditions of approval.
7. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights there under.
8. All exterior lighting shall be low intensity and shielded to reduce the visibility to surrounding areas and to minimize impacts to wildlife.
9. Pool equipment shall be located adjacent to the west wall of the proposed residence, and enclosed by solid walls.
10. All landscaping areas shall be planted and maintained as described in the landscape and fuel modification plan. Failure to comply with the landscape conditions is a violation of these conditions of approval. Landscaping shall be used to soften views of the structure as seen from Pacific Coast Highway and surrounding properties.
11. To preserve public and private views from Pacific Coast Highway to the Pacific Ocean, prior to issuance of a building permit, the applicant shall record a landscape easement in favor of the City of Malibu, which provides that landscaping may not exceed twenty-five feet (25') above natural grade or 42" above the centerline elevation (163.28-feet) of Pacific Coast Highway, whichever is more restrictive. The easement shall be recorded and in force for the life of the project. The landscape plans shall reflect the restrictions of the easement. Prior to the issuance of a building permit, final landscape plans shall be submitted for review and approved by the Planning Director.
12. This permit shall expire on one year after final planning approval, unless extended pursuant Malibu Municipal Code Section 9.4.23 (G).
13. Prior to issuance of a building permit, the property owners shall execute and record, in a form satisfactory to the City Attorney, a covenant running with the land providing that the

property owners, and her successors in interest, will indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, whether incurred prior to or after the date of this Resolution, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks, or has sought, to challenge the validity of any of the City's actions or decisions.

14. The "trellis-like" structure projecting from the west facade of the residence shall be limited to the height, size, bulk, projection and location as depicted on Plan "D" dated April 16, 2002. No additional "trellis-like" structure shall be added to the project site.

Geotechnical

14.15. Prior to final planning approval, it is the reviewer's understanding, based on discussions with the applicant, that the applicant shall retain a hydrogeologic consultant to evaluate and model the groundwater under the site. The results of the exploration, monitoring, modeling and analyses shall be incorporated into a hydrogeologic report, and two copies of the report must be submitted to City geotechnical Staff for review.

15.16. Prior to final planning approval, a comprehensive site drainage plan incorporating the Project Geotechnical Consultant's recommendations shall be submitted to City geotechnical Staff for review. The drainage plan shall include details for all measures to mitigate the shallow groundwater conditions underlying the site. All French drains, basement subdrains, retaining wall backdrains, and other subsurface nonerosive drainage devices must be included on the plan.

16.17. City Guidelines require installation of a subdrain beneath the long axis of the swimming pool, where feasible. Prior to final planning approval, the applicant shall provide specific recommendations for a swimming pool subdrain and as suitable outlet. The plans shall include a detail for the swimming pool subdrain and outlet as recommended by the Project Geotechnical Consultant.

17.18. All foundation excavations must be observed and approved by the Project Engineering Geologist and/or Project Geotechnical engineer prior to placement of reinforcing steel.

Storm Water/Drainage

18.19. The City Engineer shall impose best management practices (BMP's) to control erosion and manage storm water.

19.20. Vegetation shall be planted on the bluff face to screen the two existing down-drains (or other measures acceptable to the Public Works Director).

20.21. This project shall comply with all of the requirements of Article V, Chapter 4 of the City Municipal Code – Storm Water and Urban Runoff Pollution Control.

22. Onsite drainage construction will be in substantial conformance with "Hydrology, Control Structure, Detention System and Conveyance Study, 24920, 24910 and 24900 Pacific Coast Highway", latest revision dated September 25, 1999, or any subsequent reports accepted and approved by the City Engineer and the City Geologist.

Section 5. Certification.

The City Clerk shall certify the adoption of this Resolution. PASSED, APPROVED AND ADOPTED this 9th day of September, 2002.

JEFF JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.5.00 of the Malibu Municipal Code and Code of Civil Procedure Section 1094.6

Councilmember House expressed concern that the volunteers were to be recognized at the Volunteer Recognition event. She suggested the recognition occur at the City's birthday. City Manager Lichtig stated staff had no opinion as to when they were recognized.

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to approve the proposed list of award recipients for 2002 Jake Kuredjian Award with the recognition to occur in conjunction with the City's Birthday Celebration on March 28th. The motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

ITEM 4A

A. Appeal No. 02-006 - An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Foot in Height. The City Council will Consider to Public and Private Views of the Pacific Ocean and Consistency with the General Plan Land Use Policy 1.1.5, Land Use Implementation Measure 8 and Land Use Implementation Measure 28. Appellant: Patt Healy and/or Malibu Coalition for Slow Growth; Applicant: Barsocchini & Associates; Owner: Arthur and Kimberly Silver; Location: 24950 Pacific Coast Highway
Staff recommendation: Adopt Resolution No. 02-38 denying Appeal 02-006 and upholding the Planning Commission's decision to conditionally approve Plot Plan Review 00-129 and Site Plan Review 00-083 (PPR 00-129 / SPR 00-083).

Councilmember Stern left the dais at 7:50 p.m.

Senior Planner Rice presented the staff report.

Patt Healy urged the Council to deny the project. She indicated that the Council must find that public views are protected to the maximum extent feasible and the decision must be in conformance with the General Plan. She discussed the project's impact to the public views. She suggested a one-story residence was feasible and economically viable. She discussed the Coastal Commission's restriction on three other parcels restricting structure height to 18-feet. She discussed properties adjacent to the proposed project. She suggested staff be directed to hire a reputable surveyor to conduct an accurate survey of the story poles. She stated the Council had an opportunity to limit the structure height and preserve a view corridor.

Kevin Kozal, on behalf of the property owner, urged the Council to deny the appeal. He discussed view protection parameters in the Interim Zoning Ordinance and General Plan. He discussed project approvals on adjacent homes. He discussed the development allowable by right which would have greater view blockage. He discussed existing Coastal Commission approvals and indicated

new approvals would be necessary for the new project. He stated a third party surveyor had certified the story poles.

Bill Brantly, architect for the Silvers, indicated he had reviewed the plans and determined the elevations were below 18-feet except for the portions of structure that has two stories. He presented the site plan. He presented a cross section of the proposed project depicting the project below 18-feet in height. He presented a photograph showing the certified story poles.

Ted Vaill stated the project did not protect the public views to the maximum extent feasible. He indicated support for the appeal. He discussed the issue of mansionization and distributed the portion of the Interim Zoning Ordinance regarding structure size.

John Mazza stated the house was not notched into the hill. He stated the story poles indicated the house to be 23 feet in height in portions. He discussed projects surrounding the proposed project. He discussed impacts to the public views.

Ron Goldman addressed the Council in opposition to the proposed project. He suggested alternative designs that would not impact public views. He suggested the Council approve the project but limit mansionization and view obstruction.

Patt Heally stated it would be difficult for the Council to deny the Coastal development permit if it approved the project. She discussed view obstructions. She suggested the City require the structure be limited to one-story. She suggested the Council protect the public views in the view corridor. She submitted written comments.

Kevin Kozal commented on the statements made by the speakers in opposition to the project.

Mr. Brantly discussed the proposed site plan for the project. He discussed the proposed open space in the project which would help protect the view corridor.

Mr. Kozal urged the Council to uphold the Planning Commission's approval and deny the appeal.

Mayor Pro Tem Kearsley asked Planning Commission Chair Richard Carrigan to approach the dais. Mayor Jennings asked Mr. Carrigan if the Planning Commission had authorized Mr. Carrigan to speak on behalf of the commission. Mr. Carrigan said no. He explained that he was asked to respond to questions, not make general comments.

Councilmember House disclosed that she had received a call from Kim Silver and her attorney. She received two calls from Patt Healy who also provided written material to Councilmember House.

Mayor Pro Tem Kearsley stated he met with the Silvers and Mike Barsoccini regarding their thoughts on the height restriction. He stated they discussed issues involved in landscape easement. He stated he spoke with Patt Healy on the telephone about the history of the project and she transmitted her packet of information.

Councilmember Barovsky stated she received a call from Patt Healy to whom she explained she does not participate in ex parte communications. She stated Ms. Heally dropped off a packet of information. Councilmember Barovsky stated she received a message from Mrs. Silver and left a return message saying she does not participate in ex parte communications. She stated she had received a fax from Ms. Silver regarding prior coastal approvals. She stated she had spoken with Planning Commission Chair Richard Carrigan regarding the process. She stated she met with a neighbor who had concerns about drainage.

Mayor Pro Tem Kearsley added that he spoke with Mr. Carrigan asking him to come to the meeting.

Mayor Jennings stated he had spoken to no one other than Mr. Kozal. He stated he had received a phone message from Mrs. Silver requesting a meeting that he was unable to return. He received a packet from Ms. Heally.

Mayor Pro Tem Kearsley discussed the Planning Commission's prior practice regarding the Chair representing the Commission. City Attorney Hogin stated the Planning Commission speaks through its resolutions and by majority.

Mayor Pro Tem Kearsley asked Mr. Carrigan about the process and issues addressed by the Planning Commission. Planning Commission Chair Carrigan discussed the Planning Commission's review of neighboring projects adjacent to the Silver property. He stated the Planning Commission had reviewed the discretionary height of the second story. He stated the Commission looked at substantial front yard setback and side yard setbacks. He stated over 95% of the property was open space. He explained that he had met with the appellant to explain the review conducted by the Planning Commission. He stated no single member of the Planning Commission liked the project, however the Commission voted to approve the project.

Councilmember House asked what the Council could address. City Attorney Hogin explained that the matter was a de novo hearing. Councilmember House asked if the Council was limited to discuss those issues on appeal. City Attorney Hogin stated the issues on appeal were before the Council for decision.

Mayor Pro Tem Kearsley asked about the depiction of landscape by Mr. Goldman. Mr. Brantly explained the landscape conditions.

Councilmember House asked about Mr. Goldman's appeal and landscaping requirements. Mr. Goldman corrected comments by Richard Carrigan. He discussed alleged misstatements.

Mayor Jennings asked how the 42" landscaping height was derived. Planning Director Purvis explained that the height limit was derived to limit landscaping to 42" at the property line. Mr. Kozal stated the public views would be from the centerline of Pacific Coast Highway not the property line. Mr. Brantly explained that the landscaping was limited to protect the view corridor.

Mayor Pro Tem Kearsley asked the grade differential from center line to outer lane of Pacific Coast Highway. Mr. Brantly estimated 12 inches from crown to curb.

Councilmember Barovsky questioned the appropriateness of the Council making a decision on the appeal prior to Coastal Commission approvals. Mr. Kozal stated he had not reviewed the prior approvals. Councilmember Barovsky asked if Mr. Kozal had received the packet provided by Ms. Heally. Mr. Kozal stated he had not seen the packet. Councilmember Barovsky stated she had questions regarding the packet but the applicant had not reviewed the information. City Attorney Hogin stated the property owner should have the opportunity to respond to the information presented by Patt Heally if it might influence the Council.

Mr. Kozal indicated support for hearing Councilmember Barovsky's questions and then being allowed to review the information presented by Ms. Heally.

Councilmember Barovsky indicated questions she had based on the information presented by Ms. Heally.

RECESS Mayor Jennings called a recess at 9:15 p.m. The meeting reconvened at 9:30 p.m. with all Councilmembers present except Councilmember Stern.

Councilmember Barovsky asked if the Coastal Commission had retained jurisdiction for projects in the pipeline. City Attorney Hogin explained that the Coastal Commission had not yet done anything but was attempting to retain jurisdiction of approved projects.

Councilmember House asked Mr. Kozal if he had any comments. Mr. Kozal discussed the information included in Ms. Heally's packet.

Mayor Jennings discussed the proposed LCP and Coastal Commission's retained jurisdiction.

Councilmember Barovsky asked what would happen to a deadlock vote. City Attorney Hogin explained the Municipal Code provision regarding deadlock votes making the Planning Commission decision final.

Mayor Pro Tem Kearsley stated it was feasible to build a home at 18 feet on the size of the property. He expressed concern about the proposed landscaping. He stated it was imperative to protect both public and private views. He stated he would vote to protect the public view sheds.

Councilmember House stated it was necessary to protect the public and private views and view corridors. She stated the house should be retained at 18 feet maximum height. She stated it was necessary to review the landscape ordinance. She stated she could not support the project.

MOTION

Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to continue the project for the purpose of allowing the applicant to obtain information from the Coastal Commission as to how the Commission analyzed view impact and that the hearing be continued.

Mr. Kozal stated a Coastal application could not be filed without approval in concept from the City.

Mayor Jennings discussed the views of the project from Pacific Coast Highway. He expressed concern about the planting easement and stated he did not believe there was any justification for the 42" restriction. He stated he was inclined to support Mr. Goldman's suggestion to limit plantings. He stated his inclination was to allow the project to go forward.

City Attorney Hogin explained that the Council could approve the project with the structure height reduced.

Councilmember House asked if there were drainage issues. Senior Planner Rice explained that the City Geologist and the City Geotechnical Engineer had been present at the Planning Commission meeting to discuss drainage issues.

Councilmember Barovsky asked if the Council could approve the project and condition it not to exceed 18 feet in height. City Attorney Hogin indicated yes.

The question was called and the motion carried 3-1, Councilmember House dissenting.

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to continue the hearing to October 28, 2002. The motion carried 3-1, Mayor Jennings dissenting.

Councilmember Stern returned to the dais at 10:12 p.m.

ITEM 5 OLD BUSINESS

- A. Local Coastal Plan Update – Discussion of the Coastal Commission’s August 2002 Land Use Plan and Implementation Program and an Opportunity for Public Input in Order for the City to Evaluate the Potential Affects of the California Coastal Commission’s Proposals and Consider its Information and Community Awareness Efforts

Staff recommendation: After public input, continue discussion to the September 23, 2002 City Council meeting.

City Manager Lichtig presented the staff report.

Norm Haynie discussed the Coastal Commission’s policies and discretion.

John Mazza discussed marine resources as proposed in the Final Draft LCP. He encouraged Malibu residents to attend the Coastal Commission hearings.

Ted Vaill indicated objection that the Malibu Coastal Land Conservancy was given equal time to rebut the City’s testimony. He suggested that the City object.

ITEM 6 NEW BUSINESS

ITEM 7 COUNCIL ITEMS

- A. Request for Letter of Support for Sustainable Building Policy at Santa Monica College

Staff recommendation: Direct staff as deemed appropriate.

City Clerk Pope presented the staff report.

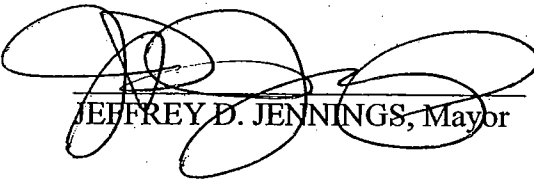
Councilmember Barovsky stated she did not have a problem writing a letter supporting good environmental practices. She stated she could support the first and last paragraph.

MOTION Councilmember Barovsky moved and Councilmember House seconded a motion to send a letter of support including the first and last paragraph of the sample letter.

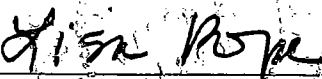
States Department of Health and Human Services immediately act to renew the 1115 Medicaid Waiver. The motion carried unanimously.

ADJOURN At 10:32 p.m., Councilmember House moved and Councilmember Barovsky seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of
the City of Malibu on October 14, 2002.


JEFFREY D. JENNINGS, Mayor

ATTEST:



LISA POPE, City Clerk
(Seal)

Stacey Rice

From: John Ainsworth [jainsworth@coastal.ca.gov]
Sent: Thursday, October 24, 2002 11:47 AM
To: 'Stacey Rice'
Subject: RE: Silver View issue

Stacey, I'm sorry I sent this e-mail yesterday but it must have disappeared somewhere in cyber space.

Stacey,

This e-mail is in response to your e-mail and telephone requests for a Commission staff opinion regarding the public view issues raised for the proposed residential development located at 24950 Pacific Coast Highway. A residential development was approved on this site on September 10, 1998 under coastal development Permit 4-98-163 for the construction of a 9,398 sq. ft., 18 foot high, one-story, residence with an attached garage tennis court, pool/spa, septic system and 2,970 cubic yards of grading for the building pad and bluff/slope remediation. Remedial grading of the bluff and a drainage system was installed pursuant to the coastal development permit which exercised the permit. Therefore, the coastal development permit remains active. Any change to the permitted development will require an amendment to the coastal development permit. The standard of review for an amendment to the coastal development permit is the Malibu Local Coastal Program.

Commission staff has thoroughly reviewed the proposed site plan, elevations, photographic exhibits and have conducted a site visit to assess the public view impacts of the structure from Pacific Coast Highway. The proposed plan increases the height of a portion of the permitted structure from 18 feet to 28 feet. The applicant has recently proposed to reduce the height of the 28-foot high portion of the structure to 24 feet. The proposed plan also eliminates a previously permitted tennis court and substantially reduces the width of the previously permitted structure.

Commission staff have asked the applicant to demonstrate that the proposed development will not increase the amount or percentage of blue water ocean views that will be blocked or obscured, as seen from Pacific Coast Highway, in relation to the previously permitted development. This visual analysis will have to illustrate that the proposed project will not block more of the blue water ocean view than the previously permitted development to be considered consistent with the previously approved permit. In addition, staff has reviewed the Malibu LCP policies relative to this project and if the applicant can demonstrate the proposed development is consistent with the previously approved development the proposed development will be in compliance with the visual resource policies of the Malibu LCP. Therefore, provided the applicant can demonstrate the proposed project is consistent with the previously approved coastal development permit commission staff will accept a permit amendment and will likely recommend approval of a permit amendment for the proposed development. However, the final decision on a coastal development permit amendment will be decided by the Coastal Commission.

If you require any additional information or assistance regarding this matter please contact me.

-----Original Message-----

From: Stacey Rice [mailto:srice@ci.malibu.ca.us]
Sent: Thursday, October 24, 2002 10:44 AM
To: 'John Ainsworth'
Cc: 'kozal@hlkklaw.com'
Subject: RE: Silver View issue

Hi Jack!!

I'm still awaiting your email regarding the Silver project. Please advise.
Thanks!! Stacey

Stacey Rice, Ph.D.
Senior Planner
City of Malibu
23815 Stuart Ranch Rd
Malibu, CA 90265
(310) 456-2489 ext. 265

November 15, 2002

Drew D. Purvis, Planning Director
CITY OF MALIBU
23815 Stuart Ranch Road
Malibu, California 90265

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**Re: Planning Commission Appeal No. 01-016; Plot Plan Review No. 00-129;
and Site Plan Review No. 00-083; Proposed Development of
24920(50) Pacific Coast Highway (Silver Property)**

Dear Mr. Purvis:

As you were previously advised (by my letter dated July 10, 2002) this office represents the owners of a number of single family residences located on Malibu Road directly across the street and downgradient from the above-referenced property. On July 9, 2002, a meeting was conducted at the site between the Silvers, several of my clients, Planning Commission Chair Richard Carrigan, and the undersigned, to discuss the various issues and risks associated with current and prospective conditions at the Silvers' lot. As an expression of their willingness to be good neighbors, the Silvers promised to provide us with copies of their soon to be procured updated hydrology and drainage reports -- contemporaneous to their furnishing the documents to the City -- so that we would be afforded the opportunity to comment upon any perceived deficiencies before the City approved same.

The Silvers' promise to furnish the hydrology and drainage reports is certainly appreciated. But serious concerns remain, which fall into two categories: (1) the timetable for landscaping of the essentially denuded hillside slope above Malibu Road, which was supposed to have been revegetated as part of the slope restoration project undertaken by the Silvers' predecessor owners three years ago; and (2) the Planning Commission's failure to impose a condition to address the necessity of groundwater monitoring/dewatering wells. Nor did the Planning Commission require acceptance and recordation of a covenant to maintain any drainage, on-site storm water detention system(s) and/or related devices. Such conditions were required of the owners of the easterly adjacent parcel (24910 Pacific Coast Highway), and it is submitted that like conditions should be imposed vis-a-vis the Silvers' proposed development. I have concurrently raised these issues with Mr. and Mrs. Silver, and a copy of my correspondence to them concerning this subject is enclosed for your reference and review.

In summary, our clients respectfully request that the Malibu City Council take the following action with regard to the above-referenced entitlements:

1. My clients would prefer to have the Silvers' promise to furnish us with copies of their hydrology and drainage reports (contemporaneous to the submittal of same to the City)

included as a condition of project approval (there is always the remote chance that the Silvers might decide to sell the property before developing same).

2. The previously remediated slope should be revegetated without delay, consistent with the 1999 condition of approval and applicable Coastal Commission and City requirements.
3. The conditions of project approval should also include: (a) the requirement to furnish updated hydrology and drainage reports, (b) installation of monitoring/dewatering wells to address potentially hazardous groundwater conditions, and (c) acceptance and recordation of a covenant to maintain the drainage and on-site storm water detention systems and/or groundwater monitoring or extraction wells (similar to the covenants required of the owners of the easterly adjacent parcel).

Needless to say, please contact the undersigned if you have any questions regarding the foregoing.

Sincerely,

LAW OFFICES OF G. GREG AFTERGOOD
a Professional Corporation

By: 

G. GREG AFTERGOOD

GGA:gm
enclosure

cc: Clients
Jeff Jennings, Mayor
Ken Kearsley, Mayor Pro Tem
Sharon Barovsky, City Councilperson
Joan House, City Councilperson
Andy Stern, City Councilperson
Richard Carrigan, Planning Commission Chair
Stacey Rice, Ph.D., Sr. Planner
Katie Lichtig, City Manager
Mr. and Mrs. Arthur Silver

Lilichiman, LLC

24950 Pacific Coast Highway

Malibu, CA 90265

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Attachment G.

Project Consultants

Architect:

Barsocchini & Associates
3502 Coast View Drive
Malibu, CA 90265
(310) 456-3625

Structural:

Engineering Design
1334 Lincoln Blvd., Suite 205
Santa Monica, CA
(310) 394-9775

Geotechnical:

RJR Engineering Group
4343 Telegraph Road
Ventura, CA 93003
(805) 650-5125

Title 24:

Sclergy Inc.
22028 Ventura Blvd., Suite 207
Woodland Hills, CA 91364
(818) 347-6096

Landscape:

Manny Randall
909 Euclid Street, #6
Santa Monica, CA
(310) 395-2615

Building Data

Address: 24950 Pacific Coast Highway

PPR#: 00-129

SPR#: 00-083

Legal: APN# 4458-15-11&12

Lot Area: 5.24 Acres

Zoning: RFR2

Fire Zone: IV

Seismic Zone: IV

Const. Type: V-N

No. of Stories: 2 (plus basement)

Occupancy: R-3 / U-1

Floor Area: Ground Floor: 7,968.68

Second Floor: 3,189.63

Total Sq. Ft.: 11,158.31 Sq. Ft.

Impermeable Area: (Including Structure): 22,927 Sq. Ft.

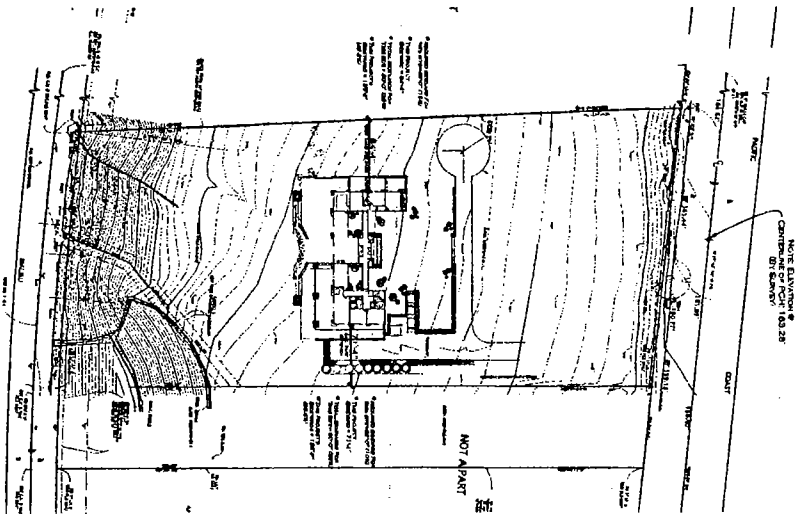
(25,000 Max. Allowed)

All Driveways Are Permeable: DG or

Interlocking Pavers

INDEX

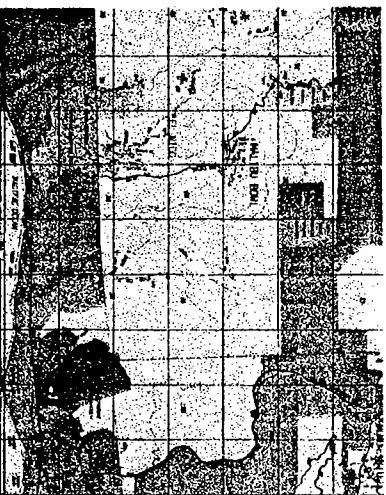
A-1	Title Sheet
A-1.1	Site Plan
A-1.2	Notice of Decision
A-2	Ground Floor Plan
A-3	Basement Floor Plan
A-3.1	Second Floor Plan
A-4	Roof Plan
A-5	North & East Elevations
A-5.1	South & West Elevations
A-6	Sections: AA
A-7	Sections: BB & CC



Site Plan

Scale: 1" = 60'-0"

Vicinity Map



Title Sheet

BARSOCCHINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCHINI, A.I.A. • (310) 456-3625
3502 COAST VIEW DRIVE • MALIBU, CA 90265

80

Lilichiman, LLC
24950 Pacific Coast Highway
Malibu, CA 90265

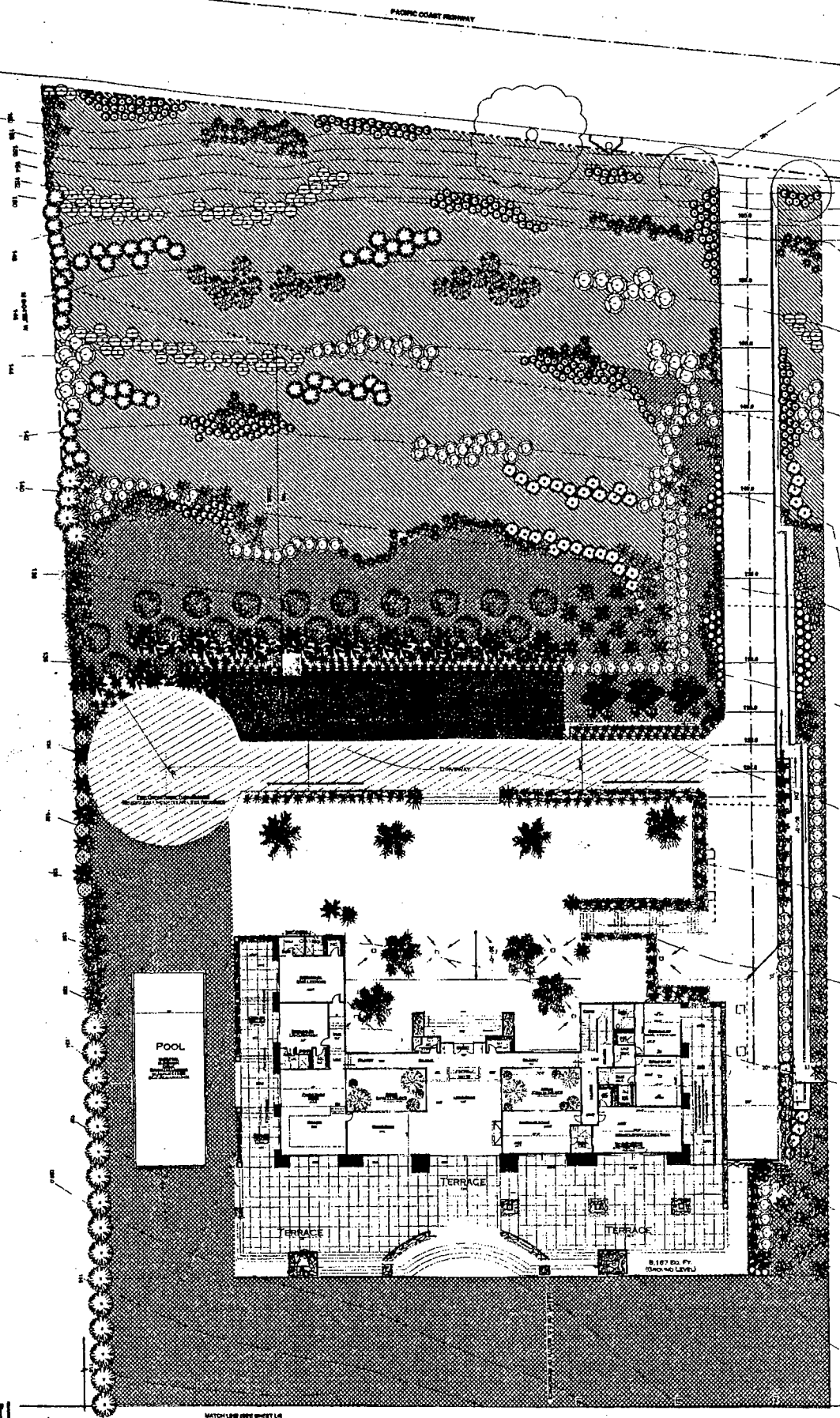
DATE	11/20/02
BY	MS
CHECKED	MS
APPROVED	MS

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LIST OF MATERIALS

1. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE OF THE BEST QUALITY AVAILABLE AND SHALL BE SUBJECT TO THE APPROVAL OF THE CITY OF LOS ANGELES PLANNING DEPARTMENT. THE MATERIALS SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR REVIEW AND APPROVAL PRIOR TO THE START OF CONSTRUCTION. THE MATERIALS SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR REVIEW AND APPROVAL PRIOR TO THE START OF CONSTRUCTION.

LANDSCAPING

1. LANDSCAPING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF LOS ANGELES PLANNING DEPARTMENT'S LANDSCAPING MANUAL. THE LANDSCAPING SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR REVIEW AND APPROVAL PRIOR TO THE START OF CONSTRUCTION.

POOL

1. THE POOL SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF LOS ANGELES PLANNING DEPARTMENT'S POOL CONSTRUCTION MANUAL. THE POOL SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR REVIEW AND APPROVAL PRIOR TO THE START OF CONSTRUCTION.

TERRACE

1. THE TERRACE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF LOS ANGELES PLANNING DEPARTMENT'S TERRACE CONSTRUCTION MANUAL. THE TERRACE SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR REVIEW AND APPROVAL PRIOR TO THE START OF CONSTRUCTION.

PROPOSED RESIDENCE
8187 PACIFIC COAST HIGHWAY
LOS ANGELES, CA 90047
APR 15/01, 412 & 414

APPROVED
CITY OF LOS ANGELES
PLANNING DEPARTMENT
APPROVED
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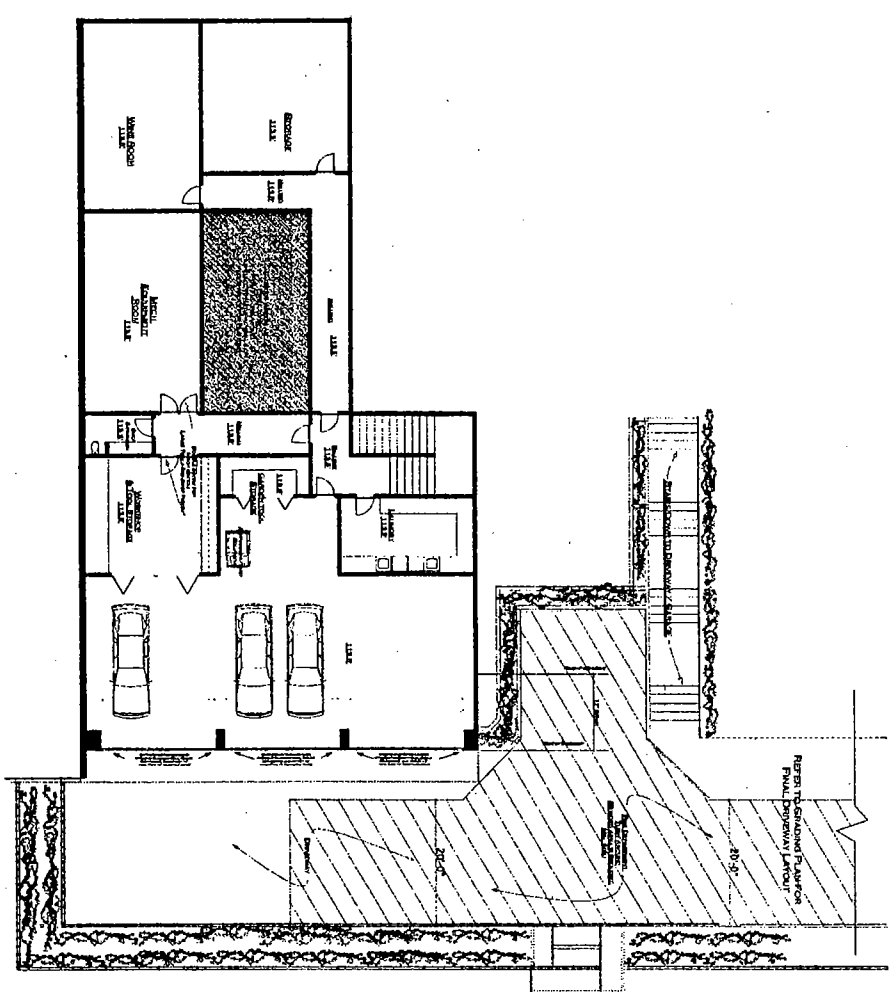
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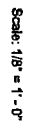
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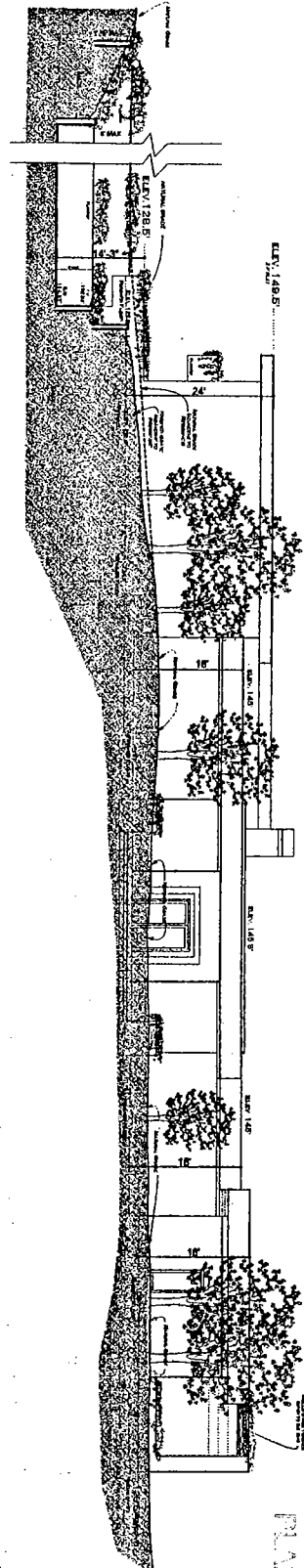
PLANNING



Basement Level Plan

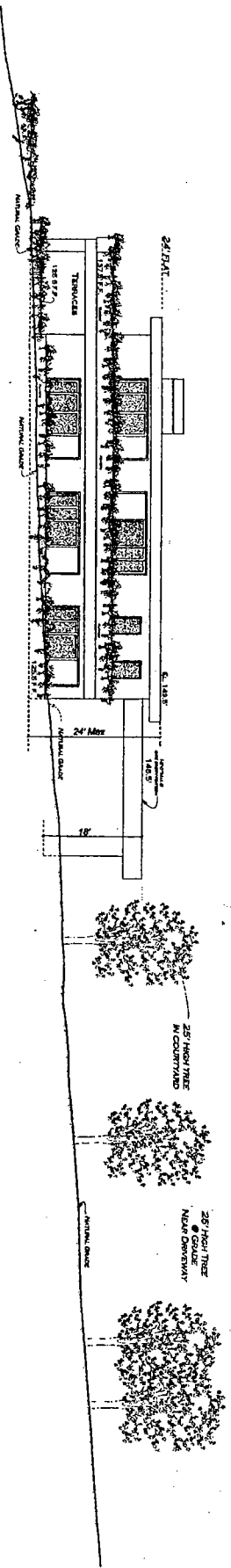
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North Elevation

Scale: 1/8" = 1'-0"



East Elevation

Scale: 1/8" = 1'-0"

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